

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF LOS ANGELES

3 CERTIFIED COPY

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5 RELIGIOUS TECHNOLOGY CENTER, A)
6 California Non-Profit Religious)
7 Corporation; CHURCH OF)
8 SCIENTOLOGY INTERNATIONAL, A)
9 Non-Profit Religious Corporation;)
and CHURCH OF SCIENTOLOGY OF)
CALIFORNIA, A Non-Profit)
Religious corporation,)

)
Plaintiffs,)

vs.)

No: BC 033035

11)
12 JOSEPH A. YANNY, an individual;)
13 JOSEPH A. YANNY, a professional)
law corporation, and DOES 1-25,)
inclusive,)

14 Defendants.)

15)

16 DEPOSITION OF

17 JOSEPH A. YANNY

18 SANTA MONICA, CALIFORNIA

19 MARCH 10, 1992

20

21 ATKINSON-BAKER AND ASSOCIATES, INC.
CERTIFIED SHORTHAND REPORTERS
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24 REPORTED BY: JAN SERRA, CSR NO. 8207

25 FILE NO.: 9202344

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11 Plaintiffs,)

12 vs.) No: BC 033035

13 JOSEPH A. YANNY, an individual;)
14 JOSEPH A. YANNY, a professional)
15 law corporation, and DOES 1-25,)
16 inclusive,)

17 Defendants.)

18

19

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21

22 Deposition of JOSEPH A. YANNY, taken on behalf
23 of the Plaintiff, at 3340 Ocean Park Boulevard, Suite
24 1050, Santa Monica, California, commencing at 10:15
25 a.m., Tuesday, March 10, 1992, before Jan Serra, CSR
 8207.

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A P P E A R A N C E S

2

FOR THE PLAINTIFF RELIGIOUS TECHNOLOGY CENTER:

3

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BY: WILLIAM T. DRESCHER, ESQ.
23679 Calabasas Road
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(818) 591-0039

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FOR THE PLAINTIFF CHURCH OF SCIENTOLOGY:

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BY: LAURIE J. BARTILSON, ESQ.
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(213) 661-4030

11

FOR THE DEFENDANT:

12

LEWIS, D'AMATO, BRISBOIS & BISGAARD
BY: DAVID B. PARKER, ESQ.
221 North Figueroa Street
Los Angeles, California 90012
(213) 250-1800

15

16

THE REFEREE: THE HONORABLE THOMAS T. JOHNSON

17

ALSO PRESENT:

18

MATT WARD
MICHAEL SUTTER

20

///

21

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23

24

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1

I N D E X

2 WITNESS: JOSEPH A. YANNY

3 EXAMINATION

PAGE

4 BY MR. DRESCHER

6

5

6

7 EXHIBITS:

8	NUMBER	DEFENDANT'S DESCRIPTION	PAGE
9		(None)	

10

11	NUMBER	PLAINTIFF'S DESCRIPTION	PAGE
12			

13	1 -	Withdrawn.	8
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14	2 -	(Revised proposed) Defendants' verified first amended answer to Plaintiff's verified complaint. Demand for jury trial.	8
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16	1 -	Verified Complaint for damages and for temporary, preliminary and permanent injunctive relief for breach of fiduciary duty.	10
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17	///		
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19	QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER:		
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20	(None)		
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21	INFORMATION TO BE SUPPLIED:		
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22	(None)		
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24

25

1 1 JOSEPH A. YANNY,
2 having first been duly sworn, was
3 examined and testified as follows:
4

2 MR. DRESCHER: Just for the sake of
5 introductions -- most of the people are familiar with
6 everyone, if not Your Honor -- my name is Bill
7 Drescher, I represent Religious Technology Center, one
8 of the plaintiffs.
9

10 To my immediate right is Michael Sutter.
11 He is the corporate representative of Religious
12 Technology Center. (Indicating)

13 To his right is Laurie Bartilson, who is
14 counsel for Church of Scientology of California.
15 (Indicating)

16 And at the opposite end of the table,
17 next to Ms. Bartilson, is Mr. Matt Ward, who is a
18 paralegal and the corporate representative of the Church
19 of Scientology of California. (Indicating)

20 We have no appearance today from
21 Mr. Quinn, who represents Church of Scientology
22 International. Although I will point out he's here in
23 spirit because his face is on my watch. It's the only
24 one I have at the moment that is working. So Mr.
25 Quinn has graciously agreed to let the questioning

2 1 suffice for his client as well. As I said, he's here
2 in spirit.

3 THE WITNESS: It's not programmed?

4

5 EXAMINATION

6

7 BY MR. DRESCHER:

8 Q You have had your deposition taken
9 before, so unless you object I'm not going to dwell on
10 the normal descriptions, admonitions and introductory
11 language.

12 You're clear on procedure, aren't you?

13 A I think so.

14 Q We both need to remember, only one person
15 can speak at a time.

16 Are you comfortable with the gum?

17 A Yes.

18 MR. DRESCHER: I found that my hearing
19 has suffered lately, if I can't hear I'll let you
20 know.

21 THE WITNESS: Um hum.

22 Q BY MR. DRESCHER: If you can avoid the uh
23 hum answer, would you do that please?

24 A Uh hum.

25 Q Any reason we shouldn't proceed today?

2 1 A That's a loaded question.

2 MR. PARKER: We're ready to proceed.

3 Q BY MR. DRESCHER: You have had adequate
4 sleep, didn't you?

5 A That's argueable, but I'll stay awake.

6 Q You can't think of any particular reason
7 why you're physically unable to continue today, is
8 that right?

9 A Too metaphysical, but no.

10 MR. DRESCHER: I'd like to mark as
11 Exhibit 1 for this deposition a copy of the "Verified
12 Complaint for Damages and for Temporary Preliminary
13 and Permanent Injunctive Relief for Breach of
14 Fiduciary Duty."

15 I have a copy for the court which I have
16 marked, and if there is no objection it will become an
17 exhibit of this transcript.

18 THE WITNESS: That's fine.

19 THE REFEREE: That's fine.

20 MR. DRESCHER: For you, Mr. Yanny.

21 (Indicating)

22 And for you Mr. Parker, and the rest of
23 the table.

24 ///

25

5

6 MR. DRESCHER: Why don't we mark as
7 Exhibit 2, which is a copy of the "Revised Proposed
8 Defendant's Verified First Amended Answer to
9 Plaintiffs' Verified Complaint and Demand for Jury
10 Trial," which is no longer proposed. As I understand
11 it.

12

12 Q BY MR. DRESCHER: Is that your
13 understanding too, that you have been permitted and
14 have filed an amended answer in this case?

15

A I have to check my records on that.

16

MR. PARKER: That is the case.

17

18

19 marked by the CSR as Exhibit 2 for
20 identification and attached to and
21 made a part of this deposition.)

22

23

23 MR. DRESCHER: Mr. Yanny, take a second
24 if you will and just satisfy yourself, or Mr. Parker,
25 satisfy yourself that that's a copy of the verified

2 1 complaint and of the first amended answer.

2 (Indicating)

3 THE WITNESS: Could I please refer to the
4 ones that have been marked for the record?

5 THE REFEREE: Sure, if you want to that's
6 fine.

7 THE WITNESS: Thank you.

8 MR. PARKER: On Exhibit 1, page 13, does
9 everyone else have a problem with that page? I'm
10 missing --

11 Thirteen is miscopied and 14 isn't here.

12 And I suspect what it is is that 14's hiding.

13 MR. DRESCHER: Is that the copies we had
14 made here?

15 MR. WARD: Yes.

16 MS. BARTILSON: I have a clean copy here.

17 (Indicating)

18 MR. DRESCHER: Does yours have the same
19 difficulty?

20 THE REFEREE: Yes.

21 MR. DRESCHER: All the copies we have
22 here made do.

23 MR. PARKER: We can replace them later.

24 MR. DRESCHER: I have a clean one here
25 for Mr. Yanny.

1 THE REFEREE: If you have a clean one,
2 why don't we mark that as Exhibit 1?

3

8

9 Q BY MR. DRESCHER: If you take a look at
10 the copy of the first amended answer, see if there are
11 any copies problems there?

12 A (Complying)

13 MR. PARKER: Exhibit 2 appears to be
14 complete.

15 Q BY MR. DRESCHER: Let's start with
16 Exhibit 2 then, Mr. Yanny.

17 If you'll turn to the sixth page from the
18 end?

19 A (Complying)

20 MR. PARKER: Counting the service?

21 MR. DRESCHER: Yes.

22 Q BY MR. DRESCHER: It should be a standard
23 form verification.

24 Do you see that Mr. Yanny?

25 A Yes

2 1 Q You have it in front of you.

2 There is a signature there that purports

3 to be yours.

4 Do you have a recollection of verifying

5 the first amended answer in this form?

6 A Uhm, as I sit here today I do not

7 specifically recall verifying, but I'm sure that I

8 probably did verify an answer.

3 9 Q Does that look like your signature?

10 10 (Indicating)

11 11 A Yes, it does.

12 12 Q The verification does it not --

13 It's actually a double verification, one

14 as a party to the action and one as an officer of

15 Joseph A. Yanny, a professional corporation.

16 Is that your understanding as well?

17 17 A I wouldn't want to draw legal

18 conclusions.

19 19 Q Did you sign it on behalf of both

20 defendants?

21 21 A I don't currently recall.

22 22 Q Do you have any reason to doubt that

23 that's your signature on that particular page?

24 24 A I have no reason to doubt that that's my

25 signature.

3 1 Q Do you notice that on the verification on
4 2 behalf of the professional corporation the second box
5 3 is checked that says that "I am informed and believe
6 4 and on that grounds allege that the matters stated in
7 5 the foregoing documents are true?"

8 6 A Yes.

9 7 Q Have you read your amended answer in this
10 8 case?

11 9 A At some point in time I'm sure I did.

12 10 Q And you approved its filing?

13 11 A I don't really understand the question.

14 12 Q Did you okay a motion brought by your
15 13 counsel for leave to file an amended answer in this
16 14 case?

17 15 A Insofar as that would involve
18 16 attorney-client communications I would object on the
19 17 grounds of privilege.

20 18 MR. PARKER: You're not asking for the
21 19 contents?

22 20 MR. DRESCHER: We have a referee, there
23 21 is no objection.

24 22 THE REFEREE: I think you can answer
25 23 that. We're not talking about contents at the moment.
26 24 We're talking about did you okay the, having this
27 25 done. You can answer that.

3 1 A I'm sure I would have been consulted
2 about the filing of a second amended complaint and a
3 motion.

4 Q BY MR. DRESCHER: First amended answer?

5 A Whatever it was.

6 Q This document?

7 A I don't know if it was this document.

8 Q So you don't really know if this is the
9 answer or not in other words?

10 A That is correct.

11 Q You don't know whether you actually
12 verified it or not?

13 A Verified what?

14 Q The first amended answer.

15 A If there was an amended answer filed and
16 I was to have verified it, I would have verified it.

17 Q You're just not sure it's this particular
18 document?

19 A That is correct.

20 Q We're going to work from the assumption
21 it is. If it turns out it isn't, then it isn't. It's
22 the one that was served on us.

23 As to the defendant, "Joseph A. Yanny, a
24 professional corporation," you're a shareholder in
25 that entity, are you not?

3 1 A Yes.

2 Q Are there any other shareholders?

3 A No.

4 Q When was Joseph A. Yanny, a professional

5 corporation, first incorporated?

6 A As I sit here, I don't currently recall.

7 Q What's your best approximation?

8 A I wouldn't want to speculate.

9 Q Do you have any recollection as you sit

10 here, whatsoever?

11 A As I sit here, no.

12 Q Apart from --

13 Who is representing Joseph A. Yanny, the

14 defendant, in this lawsuit?

15 MR. PARKER: I'm representing him.

16 MR. DRESCHER: I understand that. I'm

17 not talking about the deposition.

18 Q BY MR. DRESCHER: How many law firms are

19 represented in this action?

20 MR. PARKER: I object to that question.

21 The counsel of record is a matter of record and it's

22 really not relevant to the subject matter of this

23 deposition.

24 MR. DRESCHER: The purpose is that there

25 is some real confusion on our part of who is

3 1 representing whom. There are three law firms that
2 have made appearances.

3 MR. PARKER: If that had been a question
4 I'm sure Mr. Drescher would have made a phone call to
5 me so we could clarify it. But I'm not sure why he's
6 posing that question to my client.

7 THE REFEREE: What is the state of the
8 record as to who is representing Mr. Yanny?

9 Are we asking about the corporation or
10 Mr. Yanny?

11 MR. DRESCHER: Mr. Yanny.

12 MR. PARKER: The state of the record is
13 reflected in the pleadings we filed of late, since the
14 dismissal of the cross complaints, that there are
15 three counsel of record for the two defendants, and
16 they are Mr. Yanny himself, Patrick Smith, in Dayton,
17 Ohio, and my firm.

18 MR. DRESCHER: Thank you.

19 Q BY MR. DRESCHER: Mr. Yanny, have you
20 spoken with anyone other than any of your current
21 counsel of record about the testimony that you're
22 intending to give here today?

23 A That's a pregnant question.

24 I don't know what questions you're going
25 to ask, so obviously I don't know what testimony I'm

3 1 going to give.

2 Q Let me rephrase.

3 Did you have any discussions with anyone

4 other than your current counsel of record concerning

5 this deposition before arriving here today?

6 A No.

7 Q When is the last time you spoke with --

8 either face-to-face or over the telephone -- Vicki

9 Aznaran?

10 A I don't recall.

11 Q Was it within the last month?

12 A Possibly.

13 Q Within the last two weeks?

14 A I don't think so.

15 Q But it could have been more than a month,

16 is that right?

4 A I'm -- I really don't understand the

17 question as posed.

19 Q You said it was possibly within the last

20 month that you last spoke with Vicki Aznaran, either

21 by telephone or in person?

22 A Uh hum.

23 Q Is that your best recollection that it

24 was within the last month?

25 A As I sit here today I don't have a best

1 recollection of when I last spoke to Vicki Aznaran.

2 Q Do you have any recollection at all?

3 **A** **No.**

4 Q Do you recall the last time that you
5 spoke, either face-to-face or by telephone, with
6 Richard Aznaran?

A Can I hear the question back please?

THE REFEREE: Read it back please.

9

10 (The record was read as follows:

11 Q Do you recall the last time
12 that you spoke, either face-to-face or by
13 telephone, with Richard Aznaran?)

14

15 **A** **No.**

16 Q BY MR. DRESCHER: Was it within the last
17 month?

18 A I've already said I don't have any
19 recollection of the last time.

20 Q You do have a recollection at some
21 time -- sometime, somewhere -- speaking with Richard
22 Aznaran, don't you?

23 A On many occasions.

24 Q You have no recollection as to when the
25 last was?

4 1 A No. I wouldn't want to guess.

2 Q None whatsoever?

3 A I've already answered that.

4 Q Was it within the last six months?

5 A I'm sure it was.

6 Q How about the last three months?

7 A Probably.

8 Q The last two months?

9 A I don't know.

10 Q When was the last time, Mr. Yanny, you
11 spoke either in person or by telephone with Gerald
12 Armstrong?

13 A Yesterday.

14 Q How long of a discussion was it?

15 A Very brief.

16 Q How brief?

17 A A few minutes.

18 Q Less than five?

19 A Uh hum.

20 Yes.

21 Q More than one?

22 A I'm sure we would have used up our three
23 minute free toll call.

24 Q So it was by telephone?

25 A Yes.

4 1 Q Did you call him or did he call you?

2 A I believe he called.

3 He called me.

4 Q You did not mention this deposition to
5 him at all in that phone call yesterday?

6 MR. PARKER: Objection. Object to any
7 disclosure of the contents of the conversation based
8 on attorney-client privilege and priest-penitent
9 grounds.

10 Q BY MR. DRESCHER: Do you currently
11 represent Mr. Armstrong as his attorney in any
12 fashion?

13 A I'm afraid that may call for a legal
14 conclusion, which according to your allegations I'm
15 unqualified to make.

16 Q Which allegations are those, Mr. Yanny?

17 A You called me here as a witness, not as
18 an expert.

19 Q Your counsel has asserted an
20 attorney-client privilege in the conversation between
21 you and Mr. Armstrong.

22 To your knowledge is Mr. Armstrong a
23 member of the bar?

24 A No.

25 Q Are you?

4 1 A Yes.

2 Q So is it your understanding that in that
3 context, of the attorney-client privilege, you're the
4 attorney and Mr. Armstrong is the client, is that
5 correct?

6 A I'm not going to speculate on what my
7 counsel's state of mind was when he interposed that
8 objection.

9 Q Do you understand what the word
10 "represent" means in the context of an attorney and
11 client?

12 A Yes.

13 Q Tell me what you understand that to mean?

14 A I have an understanding of it, but I
15 would have a tough time translating it.

16 Q Take a shot Mr. Yanny?

17 A I would rather not guess.

18 Q I'd rather you do.

19 Let's -- you said you have a definition
20 of it. I'd like to hear it.

21 A I said I had an understanding.

22 Q Please tell me your understanding?

23 A No.

24 MR. PARKER: You were -- this line of
25 questioning is harassment. The man has a

4 1 lawyer-client relationship.

2 THE REFEREE: Is it your position you
3 have an attorney-client relationship with
4 Mr. Armstrong, yes or no?

5 MR. PARKER: That's our position.

6 THE REFEREE: You represent him? Do you
7 represent him at this time?

8 MR. PARKER: I understand Your Honor's
9 question to mean is there a lawyer-client relation,
10 "represent" may imply litigation.

11 THE REFEREE: That's right.

12 Is it your position you have an
13 attorney-client relationship with him at this time?

14 MR. PARKER: Let me interject and ask if
15 I can clarify the question.

16 If my client had an attorney-client
17 relationship in the past, but not now, there can still
18 be a privilege with respect to past confidences.

19 THE REFEREE: That's true.

20 I'm trying to figure out what we're
21 talking about at any stages here.

22 MR. PARKER: Maybe I can cut through it
23 by talking to the client briefly outside.

24 THE REFEREE: Please do so.

25 MR. DRESCHER: Because Judge Cardenas has

4 1 imposed time limits on this, I'd appreciate that the
5 2 length of time of any break such as this be timed by
6 3 the court reporter.

4

8

12 THE REFEREE: Yes.

13 MR. PARKER: Go ahead and answer.

14 A I don't believe that there is, except
15 whatever residuals may remain from prior consultation.

16 Q BY MR. DRESCHER: So am I correct
17 therefore in assuming, Mr. Yanny, that there was a
18 past attorney-client relationship with you as a lawyer
19 and Mr. Armstrong as a client, yes or no?

20 A In my opinion, in that I had been
21 consulted by Mr. Armstrong regarding handling
22 potential intellectual property interests, that he
23 might possess, I believe that there, there probably
24 was an attorney-client relationship insofar as I had
25 been consulted.

5 1 Q When was your first consultation with Mr.
6 2 Armstrong on that subject?
7 3 A I would only be speculating.
8 4 Q Can you give me a year?
9 5 A No, I really can't.
10 6 Q When was your last --
11 7 A I can't recall that either.
12 8 Q Not even the year?
13 9 A No, I really can't.
14 10 Q But you recognize ongoing duties with
15 11 respect to those consultations with Mr. Armstrong
16 12 under the attorney-client relationship, is that
17 13 correct?
18 14 A I have acted with utmost confidence.
19 15 I don't know what duty I recognize or
20 16 don't recognize except that I will state it for the
21 17 record.
22 18 Q You understand by the attorney-client
23 19 privilege asserted by your counsel in that respect --
24 20 MR. PARKER: I haven't asserted it in
25 21 response to any pending question.
26 22 MR. DRESCHER: Yes you did, when I asked
27 23 the content of the conversation between Mr. Yanny and
28 24 Mr. Armstrong.
29 25 MR. PARKER: Let's talk about the here

1 and now. Just ask him a question.

2 Q BY MR. DRESCHER: With respect to the
3 question I asked you, what did you and Mr. Armstrong
4 say to one another in your phone conversation
5 yesterday?

6 A May I speak to my counsel briefly?

7 THE REFEREE: Alright.

8

12

13 A I believe the only thing that was
14 discussed was the weather up north, Marin -- down
15 south here in California -- and the fact that Mr.
16 Armstrong would be traveling to Los Angeles, I believe
17 he said, next week for his deposition in this case.
18 He and Ms. Phippny and Ford Greene, Esquire.

19 Q BY MR. DRESCHER: That's all you recall
20 being discussed?

21 A Yes.

22 o In that few minute phone call?

23 A Yes, maximum few minutes.

24 0 More than one, less than five?

25 MR. PARKER: This has been asked and

5 1 answered.

2 THE REFEREE: I think it has been asked
3 and answered.

4 MR. DRESCHER: I will move on.

5 A (No response)

6 Q BY MR. DRESCHER: When was the last time,
7 Mr. Yanny, you had any face-to-face or telephonic
8 communication with Barry Van Sickle?

9 A Months ago. I wouldn't even want to
10 speculate.

11 Q Have you had any communication with Mr.
12 Van Sickle about this case since he was relieved as
13 your counsel by Judge Cardenas?

14 MR. PARKER: Mr. Van Sickle is my
15 client's former lawyer. He's the man that I replaced.
16 Whatever conversation they may have had on this case
17 are privileged.

18 MR. PARKER: I only asked about the fact
19 of the communication.

20 MR. DRESCHER: The fact is irrelevant.

21 THE REFEREE: Well, I find it hard to see
22 how we could get something or elicit something that
23 would be admissible or useful here, but I'll overrule
24 the objection just for the question about the fact of
25 a conversation. If any.

5 1 THE WITNESS: Can I hear the question
6 2 back?

3 MR. DRESCHER: I'll repeat it.

4 Q BY MR. DRESCHER: Have you had any
5 telephonic or face-to-face communications with Mr. Van
6 Sickle since he was relieved as your counsel in this
7 case?

8 A I don't technically know when he was
9 relieved as counsel of record in this case, one. So
10 that would be very difficult for me to speculate
11 about.

12 Q It was the second week of November, 1991.

13 A Thanks for clarifying that.

14 I don't really know, but I doubt it.

15 Q Did you review any documents in
16 preparation for your deposition, Mr. Yanny?

17 A No.

18 Q None whatsoever?

19 A None whatsoever.

20 Q Thank you.

21 Let me ask you to take a look at
22 paragraph 15 of the verified complaint. It starts on
23 page seven.

24 A (Complying)

25 MR. DRESCHER: And after you look that

5 1 over I'd ask you also to look over paragraph 15 of
 2 your verified amended answer.

3 THE WITNESS: Paragraph 15?

4 MR. DRESCHER: Yes.

5

6 (Pause in proceedings.)

7

12 THE WITNESS: You made some other
13 comments.

14 This is all you want me to review?

15 (Indicating)

16 MR. DRESCHER: Just paragraph 15 of each
17 document.

18 THE WITNESS: (Complying)

19

20 (Pause in proceedings.)

21

22 THE WITNESS: Okay.

23 Q BY MR. DRESCHER: Thank you, Mr. Yanny.

24 It is correct that you entered an

25 appearance for Vicki and Richard Aznaran in "Aznaran

5 1 versus Church of Scientology of California," the case
6 2 referenced in paragraph 15?

7 It is true that you entered an appearance
8 4 as your counsel of record in that case, is it not?

9 5 MR. PARKER: Objection, Your Honor. His
10 6 answer says that.

11 7 MR. DRESCHER: His answer says a lot of
12 8 things that are contradicted elsewhere.

13 9 MR. PARKER: It's a matter of public
14 10 record and he's admitted it right here in the record.
15 11 He need not inquire further of that fact.

16 12 THE REFEREE: I'm going to treat this as
17 13 a preliminary question to other questions. Let's see
18 14 if we can get this going.

19 15 A I'm not so sure of the case number set
20 16 forth in paragraph 15 of the complaint.

21 17 When I say "complaint" I'm referring to
22 18 Exhibit 1 for the record.

23 19 Q BY MR. DRESCHER: Did you enter an
24 20 appearance for Vicki --

25 21 A I wasn't finished with my answer.

26 22 Q I'll change the question.

27 23 Did you enter an appearance as counsel of
28 24 record for Vicki and Richard Aznaran in a lawsuit
29 25 pending before Judge -- in the United States District

6 1 Court this last June?

2 A I'm not so sure I made an appearance
3 until such time that the court approved it. I don't
4 believe it was approved until July.

5 I did make an appearance for Vicki and
6 Richard Aznaran, as I've admitted in my answer, in a
7 case that was then in front of Judge Edelman in the
8 United States District Court for the Central District
9 of California, that everybody has affectionately
10 referred to as the "Aznaran case," that involved
11 causes of action for locking Vicki in the --

12 MR. DRESCHER: Move to strike as
13 non-responsive, Your Honor.

14 A -- depriving her of medical care.

15 MR. DRESCHER: This is exactly why we
16 have a referee.

17 THE REFEREE: I think you've answered the
18 question sufficiently for the moment.

19 Let's go ahead.

20 Q BY MR. DRESCHER: Mr. Yanny, let me ask
21 the questions please.

22 You're obviously familiar with the
23 allegations of the Aznaran complaint. I'm not asking
24 about the allegations, I'm asking only how the claims
25 for relief, causes of action in that complaint are

1 styled.

2 Would you please tell me what the names
3 of the causes of action are in that complaint?

4 MR. PARKER: Objection, Your Honor, that
5 complaint is in another lawsuit and what it says is a
6 matter of public record. It speaks for itself.

7 There's no purpose served by testing my
8 client's memory of the words that appear in the
9 caption preceding each claim for relief.

10 MR. DRESCHER: The reason Mr. Parker and
11 Mr. Yanny are hesitant about this question is Mr.
12 Yanny has repeatedly denied that among the causes of
13 action asserted by the Aznarans are fraud and --

14 MR. PARKER: Nobody is denying what the
15 complaint says.

16 Counsel has a copy. If he wants to put
17 it in front, that's fine.

18 MR. DRESCHER: Mr. Yanny has so many
19 conflicting statements under oath, just in the
20 document in front of us, we're going to get to some
21 trial testimony that's quoted in the complaint that he
22 denies --

23 We're entitled to figure out what it is,
24 and particularly on the issue of substantial
25 relationship between causes of action.

6 1 MR. PARKER: His present memory of that
7 document is not relevant. It's not probative of any
8 evidence in this case.

4 4 MR. DRESCHER: This is a deposition, not
5 a trial.

6 THE REFEREE: For whatever limited
7 purpose, this is going to really have -- in the long
8 run I'll overrule the objection for the moment.

9 If you want to re-state your question --

10 Q BY MR. DRESCHER: To your recollection,
11 do the Aznarans have a fraud cause of action in that
12 complaint?

13 A As I currently sit here, I don't recall.

14 Q Do you see in paragraph 15 of your answer
15 where you denied that --

16 A Oh, of my answer?

17 MR. PARKER: His answer speaks for
18 itself. There is no point.

19 MR. DRESCHER: Actually, Mr. Parker is
20 right on that.

21 I'll let that one go.

22 Q BY MR. DRESCHER: As you sit here today,
23 Mr. Yanny, do you have a recollection that the
24 Aznarans, or either Aznaran has a cause of action in
25 their case for infliction of emotional distress?

6 1 MR. PARKER: When you have, I assume you
2 mean the complaint contains a purported claim?

3 MR. DRESCHER: A claim that is styled for
4 emotional distress.

5 A I believe there is a cause of action for
6 emotional distress for the result of having been
7 imprisoned in the desert for a number of months by
8 your clients, in which she was forced to run around
9 the pole, clockwise, in the desert sun, for twelve
10 hours, and the next day counter-clockwise in the
11 desert sun until she made an escape.

12 Q BY MR. DRESCHER: Your answer is?

13 A One for emotional distress.

14 MR. DRESCHER: This is precisely the
15 reason we have this referee, and I ask the court to be
16 sensitive to Mr. Yanny's parade.

17 Q BY MR. DRESCHER: Where is this desert,
18 what city?

19 THE REFEREE: City?

20 Q BY MR. DRESCHER: City?

21 A I don't know that it is in a city.

22 Q Can you describe its location
23 geographically?

24 A East of here.

25 Q Do you know a town name nearby?

7 A No.

2 Q Ever been to this desert?

3 MR. PARKER: I object.

4 These questions, which apparently have
5 something to do with another lawsuit, have nothing to
6 do with this case.

7 MR. DRESCHER: This is Mr. Yanny's
8 typical response to a question. I want him to tell me
9 where the desert is.

10 MR. PARKER: I have addressed, to the
11 Judge, an objection.

12 THE REFEREE: Sustained.

13 MR. DRESCHER: Unless it is a significant
14 point, since Mr. Yanny is sitting here telling you
15 it's in the desert when he knows it's not.

16 THE REFEREE: But I really don't see that
17 it's, so far, significant.

18 On the one hand I'm not taking it as
19 significant because I didn't really feel like it was
20 responsive to the question you asked.

21 If you think it's responsive to the
22 question you asked, maybe we're in another ballpark,
23 but I don't think so.

24 MR. DRESCHER: Thank you.

25 Q BY MR. DRESCHER: I'm going to ask you a

7 1 series of yes and no questions Mr. Yanny.

2 To your knowledge --

3 THE REFEREE: I predict this is wishful
4 thinking.

5 MR. DRESCHER: That's one of the reasons
6 you're here. (Indicating the Referee)

7 Q BY MR. DRESCHER: To your knowledge, was
8 Ms. Aznaran formerly a staff member of Religious
9 Technology Center?

10 MR. PARKER: Your Honor, I was inclined
11 to --

12 Let me register the objection this way.
13 To the extent that the witness is asked to reveal
14 information given to him in confidence by the
15 Aznarans, then I object to it on the attorney-client
16 privilege grounds.

17 To the extent that he may have that
18 information because it was given to him while she was
19 at the Church and while he represented the Church, or
20 came to him from sources elsewhere in the Church, then
21 that's not privileged. Because the Church, by suing
22 Mr. Yanny has made that fair game so to speak, open
23 public record, and he can give that information.

24 I do not want him disclosing and I object
25 to any disclosure of privileged communications with

7 1 the Aznarans.

2 THE REFEREE: I think that's a legitimate
3 objection. And it's noted. But --

4 MR. PARKER: Can you answer the question?

5 THE WITNESS: Can I hear it back?

6 Q BY MR. DRESCHER: Was Ms. Aznaran
7 formerly a member of the Religious Technology Center
8 to your knowledge?

9 A "Formerly?" I don't really know what to
10 tell you about that.

11 Oftentimes doctoring of the records --

12 MR. DRESCHER: You've answered the
13 question.

14 THE REFEREE: Gentleman, gentleman.

15 We can have an answer to the question,
16 and if it's appropriate to strike the answer we can do
17 that.

18 THE WITNESS: I do know, in further
19 answer to the question --

20 MR. DRESCHER: I object, there is no --

21 THE WITNESS: -- that she was reported to
22 be the president of the Religious Technology Center.
23 Whether that made her a staff member or not, I don't
24 know.

25 Q BY MR. DRESCHER: To your knowledge, was

1 Mr. Aznaran ever employed as a staff member of any
2 Church of Scientology?

3 MR. PARKER: Same objection.

4 And admonition. But I think you can
5 answer it consistent with that.

6 THE REFEREE: You can you have a running
7 objection and admonition.

8 THE WITNESS: May I hear the question
9 back please?

10 THE REFEREE: Read it back please.

11

12 (The record was read as follows:

13 Q BY MR. DRESCHER: To your
14 knowledge, was Mr. Aznaran ever employed
15 as a staff member of any Church of
16 Scientology?)

17

18 A I will qualify the answer as follows.

19 Insofar as "employed" is used, I would
20 prefer not to deal with that particular term because
21 that is something beyond my expertise.

22 "Staff member," I have a problem with
23 that because it is a colloquial term used within the
24 organization which I'll refer to Scientology as. And
25 I do know, however, that he was associated in some

7 1 fashion with the organization.

2 I don't know which alleged Church he was
3 affiliated with, but I do know that he was from
4 time-to-time associated with OSA Int., and coordinated
5 quite closely with Marty Rathbun, who held the title
6 "Special Project L" from at least 1981 or '82. And I
7 continued my disassociation with the organization.

8 Q BY MR. DRESCHER: When was your
9 disassociation Mr. Yanny?

10 A It would have been towards the end of
11 1987.

12 Q How long did you represent Religious
13 Technology Center or any of the plaintiffs as their
14 lawyers?

15 A As I sit here, I don't recall.

16 Q Do you recall when you began that
17 representation?

18 A As I sit here, no.

19 Q You do recall representing Religious
20 Technology Center at one time or another?

21 A Yes, as well as Church of Scientology
22 International, Church of Scientology California, L.
23 Ron Hubbard's estate.

24 I believe I may have even made an
25 appearance on behalf of L. Ron Hubbard once or twice.

1 I have made an appearance on behalf of
2 David Miscavige and Author Services.

3 Q What case did you appear with Mr.
4 Miscavige?

5 A The FAIR suit.

6 Q Freedom for All In Religion?

7 A Such a reprehensible concept, but yes.

8 Q What case did you represent Mr. Hubbard?

9 A As I sit here there may have been a
10 couple, I don't really recall. I at least did work
11 for him, no matter who paid for it?

12 Q Did you ever represent Ms. Aznaran, as an
13 individual, back in the period from 1983 to '87?

14 A Yes.

15 Q In what case?

16 A It would have been the FAIR suit as well,
17 although no formal appearance was made since she was
18 an unserved party.

19 And I did that at the request of the
20 organization, Scientology.

21 Q Who specifically in the organization?

22 A Marty Rathbun.

23 And I believe David Miscavige as well
24 asked me to do that.

25 Q He directly asked you?

8 1 A Yes.

2 Q How many times have you met Mr.

3 Miscavige?

4 A It would be too many to count.

5 Q Is that greater than one?

6 A I'm not going to get into argumentative

7 nonsense.

8 Q Is it greater than one?

9 A Much greater.

10 Q As in more than two?

11 A It would be more than two or three dozen.

12 Q How many occasions have you actually

13 spoken with Mr. Rathbun?

14 A Again, too many to recount.

15 Q More than two or three dozen?

16 A Yes.

17 Q By "communication" you mean -- I mean,

18 and I hope you understood it to mean face-to-face or

19 telephonic.

20 Is that what you were answering to as

21 opposed to written?

22 A Written, there would be many more than

23 that.

24 But as they were always in the

25 communication loop or in any communication involving

any litigation involving any individual in Scientology or outside of Scientology, or any organization of Scientology, Special Project L was always copied. And D.M.V., David Miscavige.

5 MR. DRESCHER: Move to strike after "many
6 more."

THE REFEREE: Strike the balance.

8 Q BY MR. DRESCHER: During the course of
9 representing Religious Technology Center did you have
10 any role in a case or cases titled Religious
11 Technology Center versus Scott, or Religious
12 Technology Center versus Wollersheim?

13 THE WITNESS: May I hear that question
14 back please?

25 (Discussion held off the record.)

8 1 A Yes.

2 Q BY MR. DRESCHER: You were a counsel for

3 the plaintiffs in that case, is that --

4 A And the cross defendants.

5 Q So there were counterclaims in other

6 words?

7 A Counter defendants. It was a federal

8 case.

9 Q But you did represent counter defendants

10 in those --

11 Those cases were consolidated were they

12 not?

13 A Eventually.

14 One was brought in January of '85 and the

15 other in November of '85. One was 85-711. The other

16 85-7197. They were consolidated motions.

17 I believe, just for the record, that

18 there was no differentiation of interest or counsel in

19 those cases. I appeared with other people for Church

20 of Scientology California, Religious Technology Center

21 and Church of Scientology International in that case.

22 Q In both claims and counterclaims?

23 A Whenever they popped their heads up,

24 yeah.

25 Q Do you recall whether there were any --

8 1 By the way -- You went into great detail
2 about Ms. Aznaran and things that supposedly happened
3 in the desert.

4 Did you ever hear the term "RPF?"

5 A Yes.

6 Q What does "RPF" stand for?

7 A "RPF" stands for a process.

8 Q You misunderstand the question.

9 Do you understand what the letters "RPF"
10 denote?

11 What do the letters stand for?

12 A Rehabilitation Project Force I believe.

13 Q Do you recall whether in the course of
14 your representation of the various entities in
15 Religious Technology Center versus Scott, you had a
16 slang for that, didn't you, called Religious
17 Technology Center versus Scott and Religious
18 Technology Center versus Wollersheim?

19 A There was RICO-1 and RICO-2, and after
20 consolidation we referred to them as "the RICO case."

21 MR. DRESCHER: I'll refer to them as "a
22 RICO case."

23 THE WITNESS: We have now arrived at a
24 convention.

25 MR. DRESCHER: We will both call it that

1 anyway.

2 Q BY MR. DRESCHER: The RICO case, was
3 there or was there not a counterclaim asserted against
4 your clients concerning one of the counterclaimant's
5 alleged experiences on the RPF?

6 THE WITNESS: May I hear that back again
7 please?

8

9 (The record was read as follows:

10 Q BY MR. DRESCHER: The RICO
11 case, was there or was there not a
12 counterclaim asserted against your
13 clients concerning one of the
14 counterclaimant's alleged experiences on
15 the RPF?)

16

17 A I believe that prior to 1985 --

As a matter of fact, before 1983 David Mayo, one of the defendants and eventually one of the counterclaimants, had made, had been RPF'd so to speak, as they call it within the organization. And made allegations that he had been locked in the desert and deprived of food, deprived of water, medical care, and that he had suffered substantial physical injury and emotional injury as a result of the activities

9 1 that he had been subjected to while on the RPF
2 someplace in the desert, I believe it was referred to
3 as Happy Valley.

4 Q Is it your recollection that Mr. Mayo had
5 been a staff member of one or more of your clients in
6 that case?

7 A "Staff member" again is a term of art,
8 and I really don't want to get into that.

9 He had been associated with the
10 organization to the best of my recollection.

11 He had been one of the actual
12 incorporators of the Religious Technology Center as a
13 result of the MCCS, sort out of the corporate
14 structure. As a result of litigation and tax
15 problems.

16 "Staff member," I'm trying to explain.

17 Q Did you ever hear the term "senior case
18 supervisor international?"

19 A Yes.

20 Q Did you ever come across any information
21 that Mr. Mayo held a post with the title "senior case
22 supervisor international?"

23 A Yes.

24 Q You've heard the term "president of the
25 Religious Technology Center," have you not?

9 1 A Yes.

2 Q Is it your understanding or were you ever

3 told by anyone that Vicki Aznaran was once president

4 of Religious Technology Center?

5 MR. PARKER: Asked and answered.

6 MR. DRESCHER: I'm not at all sure.

7 THE REFEREE: You may answer that one.

8 THE WITNESS: May I hear it back?

9 Q BY MR. DRESCHER: I'll rephrase it.

10 Did anyone ever represent to you that Ms.

11 Aznaran was ever president of Religious Technology

12 Center?

13 A Yes.

14 Q Amongst the counterclaims asserted by Mr.

15 Mayo in the RICO case, was there a counterclaim made

16 by him for emotional distress?

17 MR. PARKER: For the record, may I have a

18 standing objection that the contents of these as

19 public records speak for themselves?

20 THE REFEREE: Yes.

21 A I believe he did, yes.

22 Q BY MR. DRESCHER: Did Mr. Mayo, to your

23 recollection, assert a counterclaim against one or

24 more of the defendants for fraud?

25 A I don't recall.

9 1 MR. DRESCHER: Mr. Yanny, if you'll look,
10 2 please, at paragraph eight of the verified complaint,
11 3 and then at paragraph eight of your verified amended
12 4 answer.

13 5 Take a second just to look them over,
14 6 because the next series of questions arise from those
15 7 allegations and that response.

16 8 THE WITNESS: (Complying)

17 9

18 10 (Pause in proceedings.)

19

20 Q BY MR. DRESCHER: Have you had a chance
21 to look both of those paragraphs over?

22 A Yes, I have.

23 Q BY MR. DRESCHER: Mr. Parker, have you?

24 Q BY MR. PARKER: Am I under oath?

25 Q BY MR. DRESCHER: I'm just trying to be
26 courteous. I apologize. I won't make that mistake
27 again.

28 Q BY MR. PARKER: If I'm not ready I'll let
29 you know.

30 Q BY MR. DRESCHER: Paragraph eight, Mr.
31 Yanny, does list particular cases with the allegation
32 that you "formerly represented and appeared as counsel
33 of record for plaintiffs."

9 1 Is it primarily accurate to say one or
10 2 more of the plaintiffs?

11 3 A It's probably more accurate to say it as
12 4 you said it first.

13 5 Q If you look at page four, line five of
14 6 the complaint?

15 7 A (Complying)

16 8 Yes, sir.

17 9 Q Right after the parenthetical "RTC v.
18 10 Scott." (Indicating)

19 11 Did you appear as counsel of record for
20 12 any of the plaintiffs in that case?

21 13 Why don't I rephrase that?

22 14 Did you ever appear as counsel of record
23 15 for any of the plaintiffs in this case, in the Elmira
24 16 Mission case?

25 17 A I made an appearance in that case, as you
26 18 refer to it, which is the "Church of Scientology
27 19 International, et al., versus Elmira Mission of the
28 20 Church of Scientology, et al.," in the Western
29 21 District of New York.

30 22 I'm not so sure of the case number, and I
31 23 don't believe there was any differentiation as to
32 24 counsel. We all appeared for the same ball of wax.

33 25 Q Including you?

9 A Including me.

10 Q As to the next case there, "Church of

11 Scientology of California versus David Jordan, et

12 al." -- and I'm not going to hold you to the case

13 number -- it seems to be only the Scott and

14 Wollersheim case numbers you remembered?

15 A It's ingrained.

16 Q Did you make an appearance for the Church

17 of Scientology of California in the Jordan case?

18 A My office was involved in that case. And

19 I'm sure I made an appearance at one point in time.

20 Q As counsel of record for Church of

21 Scientology of California?

22 A Yes.

23 Q In the next case, which is "Clay Eberle,

24 et al., versus Church of Scientology of California,"

25 again, I'm not going to hold you to the case number --

26 A Thank you.

27 Q -- did you enter an appearance as counsel

28 of record for the Church of Scientology California in

29 that case?

30 A Yes.

31 Q Mr. Yanny, you held once a title, post,

32 however you want to characterize it, of coordinating

33 attorney for Religious Technology Center, did you not?

9 1 A Yes, I did.

2 Q For approximately how long?

3 A I think officially 1985 through the end
4 of '85. Towards the end of '85.

5 Although the functions in some respects
6 continued thereafter without any titles being listed
7 on the distribution list, just various attorneys were
8 copied on things including Earle Cooley, myself, John
9 Peterson, Hertzberg, Leiberman.

10 MR. DRESCHER: I move to strike
11 everything after the acknowledgment that he did have
12 that title for another period of time.

13 THE REFEREE: He either has --

14 The only way I'll restrict the answer,
15 just say along with some other people. That's his
16 answer so far.

17 MR. DRESCHER: With respect, I believe
18 Your Honor misunderstood the answer.

19 Q BY MR. DRESCHER: Mr. Cooley or Hertzberg
20 or Leiberman, to your knowledge, never held the title
21 coordinating counsel, did they?

22 A I think they actually did at one point in
23 time, but for --

24 The fact of the matter is there became a
25 little cadre of people that coordinated all activities

1 of the organization and litigation involving the
2 organization or involving third party litigations in
3 which the organization had an interest. That included
4 for-profit and not-for-profit.

5 Q Mr. Yanny, this is my recollection of
6 your trial testimony from the Yanny case. If you
7 disagree with this one simple fact, please say so.

8 It's my recollection that you testified
9 that you represented various of the Churches;
10 Religious Technology Center, CSI, and others from a
11 period 1983 until the end of 1987, is that accurate to
12 your opinion?

13 MR. PARKER: I object.

14 The witness should not be required to
15 characterize previous testimony. There is no point in
16 characterizing it or playing memory games for the
17 witness.

18 MR. DRESCHER: It's not a memory game.

19 THE REFEREE: The objection is overruled.

20 Q BY MR. DRESCHER: I'll give it to you
21 more straightforward.

22 From sometime in 1983 until sometime near
23 the end of 1987, it's true is it not, that you
24 represented various entities associated with the
25 Church of Scientology, including those we have named

10 1 today so far: Religious Technology Center, Church of
1 Scientology International, Church of Scientology
2 California, and others that you listed before?

4 MR. PARKER: I object to the form of the
5 question as compound.

6 THE REFEREE: It's gotten pretty
7 compound.

8 A (No response)

9 Q BY MR. DRESCHER: From 1983 to 1987 did
10 you represent one or more Church entities?

11 A I'm not so sure of the beginning year.
12 I'd have to check.

13 But between at least '84 and '87 I
14 represented various Scientology organizations which
15 I'll refer to as "the organization."

16 MR. DRESCHER: That's fine. I just
17 wanted to have our time frame down.

18 Q BY MR. DRESCHER: During that time frame,
19 within those bounds ending in 1987 --

20 A I'd like to clarify one earlier answer.

21 You asked me when I represented Hubbard.
22 I was also consulted in the latter part of December
23 1985, early '86, regarding an ongoing IRS Criminal
24 Investigation Division investigation that was going
25 down that intelligence reports that the organization

10 1 had indicated was going to result in indictments,
11 2 imminent indictments unless, quote, "the old man
12 3 dropped dead," end quote.

13 Insofar as that consultation with
14 Hubbard, I'm sure I was consulted on that as well.
15 I didn't mean to interrupt.

16 Q Did any indictments come forward out of
17 that?

18 A No, Hubbard died for tax reasons.

19 Q On what do you base that statement Mr.
20 Yanny, what facts that Mr. Hubbard died for tax
21 reasons?

22 MR. PARKER: I think we're getting a
23 little far afield.

24 If he wants to open the door we're happy
25 to march through.

26 THE REFEREE: It's hard for me to know
27 where this should start and stop. He did say this,
28 and we'll see where it leads us.

29 Q BY MR. DRESCHER: On what facts of your
30 personal knowledge do you know that Mr. Hubbard died
31 for tax reasons?

32 A Can I get a cup of coffee for this?

33 MR. DRESCHER: I don't really want to
34 stop. Enough time has been wasted.

10 1 MR. DRESCHER: If it's going to cause a
11 2 delay, let's move. I withdraw the question.

12 3 THE WITNESS: Let's forget the coffee.

13 4 Q BY MR. DRESCHER: What were your duties
14 5 for Religious Technology Center during the time you
15 6 held the title of coordinating counsel, in your own
16 7 words.

17 8 This is what you have been waiting for.

18 9 A I was to coordinate primarily a
19 10 litigation involving the organization that dealt with
20 11 intellectual property matters for the most part.

21 12 And inevitably any dispute that
22 13 Scientology got into where it was a plaintiff or
23 14 defendant, involved allegations of, justifiable
24 15 allegations of tax fraud, fraud on the courts,
25 16 obstruction of justice, emotional distress -- not
11 17 often enough -- invasion of privacy.

12 18 And so peripherally I would get involved
13 19 in some of those matters only insofar as they impacted
14 20 or effected my primary duty, which was involved with
15 21 the protection of the intellectual property interests
16 22 of the organization. Both on the for-profit and
17 23 not-for-profit level. Although I was technically
18 24 RTC's coordinating counsel and other people were
19 25 coordinating counsel for other of the tentacles of the

11 1 organization.

2 I oftentimes did work funded by Religious
3 Technology Center that was intended for use by various
4 for-profit organizations such as Bridge Publications,
5 Author Services Incorporated.

6 I also did work that involved and
7 impacted Hubbard's personal interests and intellectual
8 properties that were either assigned and/or
9 licensed -- and that became a matter of dispute from
10 time-to-time -- to various of the organizations.

11 I also was involved -- the litany of what
12 I did is -- I also helped the organization in some
13 respects control overseas operations through the "IG
14 Network" as it was referred to -- Inspector General
15 Network -- which was involved with the for-profit
16 organization, Author Services Incorporated, and
17 operated through Bridge Publications, Religious
18 Technology Center, IG Network, internationally for the
19 transfer of funds and the licensing of the use of
20 various of the intellectual properties.

21 Although I was involved in many of the
22 peripheral aspects my primary responsibility was
23 basically to supervise the people that knew the
24 particular expert, or had particular expertise with
25 respect to individual types of torts and business

11 1 matters, but to always keep an eye on the intellectual
12 2 property aspect and make sure that the right-hand knew
13 3 what the left-hand was doing insofar as that is
14 4 concerned. That involved supervising the legal work
15 5 of local counsel and foreign counsel in those matters.

16 Now can I get a cup of coffee?

17 MR. DRESCHER: Sure.

18 THE REFEREE: We'll take about a five
19 minute recess at this time.

20

21 (Recess taken 11:23 a.m. to 11:32
22 a.m.)

23

24 MR. DRESCHER: Are we all set Mr. Yanny?
25 Ready to continue?

26 MR. PARKER: We're ready.

27 MR. DRESCHER: Thank you.

28 Q BY MR. DRESCHER: You've given us a
29 lengthy description of your responsibilities as lawyer
30 for various of the Church entities?

31 A For the organization.

32 Q Would you say that that could be fairly
33 characterized as controlling and overseeing all of the
34 litigation that involves Scientology anywhere in the
35 world?

11 1 MR. PARKER: Objection, compound.

12 Also ambiguous. I don't know what you

13 mean by "controlling."

14 4 MR. DRESCHER: If it helps Your Honor,

15 5 I'm quoting Mr. Yanny's testimony before Judge

16 6 Cardenas at trial.

17 7 MR. PARKER: I object on the additional

18 8 grounds it's been asked and answered.

19 9 THE REFEREE: I think it's an

20 10 understandable question.

21 11 THE WITNESS: Can I hear it back?

22 12

23 13 (The record was read as follows:

24 14 Q Would you say that that

25 15 could be fairly characterized as

26 16 controlling and overseeing all of the

27 17 litigation that involves Scientology

28 18 anyplace in the world?)

29 19

30 20 A I wouldn't want to say what's a fair

31 21 characterisation or not.

32 22 Q BY MR. DRESCHER: Is it accurate?

33 23 A Insofar as overseeing is concerned, yes.

34 24 Controlling? Since I gave that testimony

35 25 I've had time to think about that. Controlling, I

11 1 certainly didn't really control the litigation. It's
12 2 a little too esoteric of an issue for me to grapple
13 3 with.

4 I certainly coordinated efforts of
5 various counsel and various of the parties.

6 Q In all matter of litigation?

7 A Mostly insofar as it impacted
8 intellectual property. I can give you an example.

9 Q No.

10 I wondered if it was something besides
11 intellectual property because you listed other types
12 of claims in your answer to the question.

13 A I'll give you an example.

14 The Christopherson case, the one that
15 resulted in the 39 million dollar verdict up there in
16 Portland, that didn't involve anything that I
17 controlled.

18 I was brought in and had to brief myself
19 as to the issues that were involved with some of the
20 intellectual property rights. The matters involved
21 the upper level materials, the Wollersheim -- I
22 couldn't even tell you what he was suing for. The one
23 that was in front of Judge Swairinger.

24 But I know it involved in some way the
25 upper level materials and the property and means of

11 1 controlling access to those matters are public
12 2 availability, and public record was one of the jobs
13 3 that I involved myself with on behalf of your present
14 4 client, my former clients; the organization. When
15 5 those kind of issues came up I got drawn in.

16 There was a civil rights case at one
17 7 point in time that got filed in federal court
18 8 involving the ongoing state court, Wollersheim case,
19 9 and insofar as that impacted on some of the upper
20 10 level materials or intellectual property rights, I was
21 11 brought in. Particularly after there was trouble with
22 12 the other counsel of record in the case I was brought
23 13 in to try to clean up the matter.

24 Q So it's "oversee" you don't have a
25 problem with as you've described in your answer, but
26 "control" you would take issue with?

27 A "Control," upon reflection I think
28 coordinate might be more important, might be more
29 accurate.

30 And insofar as familiarizing myself to
31 some degree with, at least necessary issues of the
32 case, to permit me to do that, yes.

33 Q And the 39 million dollar verdict you
34 referred to in the Christopherson case, that's the
35 verdict that led to a declaration of mistrial after

12 1 the verdict was rendered by the jury, is that the one
 2 you're talking about?

3 A I have no idea.

4 Q There is also the 30 million dollar case?

5 A That was the Wollersheim.

6 Q That was the one vacated by the Supreme
7 Court?

8 MR. PARKER: That's not what the Supreme
9 Court did.

10 A Only to see if it should be jacked back
11 up to whatever it was reduced by the court of appeals.

12 Q BY MR. DRESCHER: Or thrown out
13 altogether?

14 MR. PARKER: He's speaking of an order,
15 Your Honor, that was issued by the United States
16 Supreme Court within the last 12 months, and he wants
17 to debate the meaning of the order which --

18 THE WITNESS: I was in Washington when
19 they did that by the way.

20 Part of a conspiracy --

21 Q BY MR. DRESCHER: Do you remember any of
22 the claims in the Christopherson case?

23 A Not as I sit here today.

24 Q Is it accurate to say, Mr. Yanny, that
25 you also oversaw the administrative side. what they

1 call the "transactional side" of their legal business
2 where they enter agreements with franchises or mission
3 holders depending on where they are located?

4 Is that accurate in describing your
5 responsibilities?

6 A Can I hear that back?

7 MR. DRESCHER: I'm going to repeat it.

8 THE REFEREE: This is a substitute
9 question.

10 Q BY MR. DRESCHER: Is it accurate that you
11 also oversaw the administrative side, what they call
12 the "transactional side" of their legal business where
13 they enter agreements with franchisees or mission
14 holders depending where they were located?

15 A My English wasn't the best at the time.

I probably gave that quote, but I did
oversee the transactional side of intellectual
property licensing and actually securing the documents
which raised presumptions in favor of the holder in
evidentiary matters such as registrations for
copyrights, such as registrations for trademarks.

22 I believe there was even some patent
23 matters for L. Ron Hubbard regarding E-Meters that I
24 had dealt with.

25 I hope that clarifies.

12 1 Q Was that an accurate characterization?

2 A I'm not going to say whether it's
3 accurate. I'm either misquoted in the transcript or I
4 misspoke.

5 Q Is it also accurate that you, was also
6 too, if there were any flaps as they were called, any
7 problems that arose, you were usually briefed on what
8 the problem was, what was expected, and asked for
9 solutions to those types of events, is that accurate?

10 MR. PARKER: Objection, it's ambiguous.

11 I can't tell from the question what matters he has
12 referenced.

13 A (No response)

14 Q BY MR. DRESCHER: Do you have the same
15 problem?

16 A I don't know if I have the same problem.
17 I can explain to you.

18 MR. DRESCHER: I withdraw.

19 Q BY MR. DRESCHER: Mr. Yanny, do you
20 recall last summer having an encounter with Kendrick
21 Moxon at the United States District Courthouse,
22 downtown?

23 A Can you be more specific?

24 Q Sure.

25 Do you recall a time this past summer in

12 1 which you and Gerald Armstrong and Mr. Moxon came
13 2 together in the file room of the United States
14 3 District Court for the Central District of California?
15 4 A Yes.
16 5 Q Do you recall whether it was around or
17 6 about July 15 of last year?
18 7 A I don't remember the exact date, but that
19 8 would sound like about the time frame.
20 9 Q About what time of day was it, do you
21 10 recall?
22 11 A No, I really don't. Obviously the
23 12 courthouse was open.
24 13 Q How long did you and Mr. Moxon and Mr.
25 14 Armstrong stay together on that encounter, how long
26 15 was it?
27 16 A There are actually a couple times.
28 17 Q Take the first one, the one in the file
29 18 room?
30 19 A The first one was not in the file room.
31 20 Q Where was it?
32 21 A It was in the hallway outside the file
33 22 room.
34 23 Q The three of you were present? You, Mr.
35 24 Armstrong and Mr. Moxon?
36 25 A That could be argued.

12 1 But the person I have come to recognize
13 2 as Kendrick Moxon was there, yes.

13 3 Q Was anybody else with Mr. Moxon at the
14 4 time?

15 5 A Not that I recall.

16 6 Of course you can never tell who is
17 7 tailing who.

18 8 Q Did you and Mr. Moxon engage in any
19 9 conversation when you encountered each other in the
20 10 hall outside there?

21 11 A Yes.

22 12 Q How long did that conversation last?

23 13 A Very briefly.

24 14 Q Less than a minute?

25 15 A I'm terrible at those kind of things. I
26 16 have a tough time doing isometrics because of it.

27 17 Q It was very briefly?

28 18 A Briefly.

29 19 Q Do you recall in that particular
30 20 encounter what was said by you, if anything?

31 21 A As I sit here today, I don't.

32 22 Q Do you recall in that first encounter
33 23 what, if anything, was said by Mr. Moxon?

34 24 A Yes.

35 25 Q What did he say?

13 1 A He looked at Jerry, I do recall. He
14 2 said, "oh, you two are together." Referring to me.

15 3 And the rest of his comments were
16 4 basically directed at Jerry Armstrong.

17 5 Q What were the rest of his comments?

18 6 A He asked, he looked at Jerry Armstrong
19 7 and said "do you recognize me?"

20 8 Q Did Mr. Armstrong respond to that?

21 9 A Yes.

22 10 Q What did he say?

23 11 A He said "yes, you're the indicted
24 12 co-conspirator in the case of U.S. v. Hubbard that was
25 13 talked about in the stipulation of evidence. And the
14 man that provided the false handwriting exemplaars to
15 the government during that investigation."

26 16 Q He said all that when Moxon asked if he
27 17 knew who he was?

28 18 A That's what I said, didn't I?

29 19 Q That's what you said, but it took you 22
30 20 seconds to say it?

31 21 A Jerry's a faster talker than I am, I'm
32 22 from West Virginia.

33 23 Q What, if anything, did Mr. Moxon respond
34 24 to that?

35 25 A Moxon was a little taken back by that.

13 1 And if I recall --

2 As I sit here I don't recall what exactly

3 Moxon said, if anything, after that.

4 Q Did you say anything during that first

5 brief encounter with Mr. Moxon?

6 A I don't know. I don't recall if I said

7 anything.

8 Q Do you recall anything else Mr. Armstrong

9 said?

10 A During that first encounter?

11 Q Yes.

12 A It makes it easier if you let me finish

13 my answer before you --

14 As I sit here today I can't recall.

15 A Do you remember anything else Mr. Moxon

16 said during that encounter?

17 A As I sit here today, no.

18 Q What happened next, did you guys go your

19 separate ways at that point?

20 A Moxon walked down the hall and I walked

21 back into the file room where I was reviewing a case

22 called "J.J. Gaw Investigations Inc.," case number

23 91-2107 (JSL), U.S. District Court, Central District

24 of California, involving a case made by the Church

25 investigator against the United States Government to

1 quash subpoenas regarding laundering of money to
2 individual investigators who had done various and
3 nefarious deeds including putting dead animals on the
4 doorsteps of federal agents during the course of
5 Scientology investigations, making phone calls to the
6 homes of various federal agents during ongoing federal
7 investigations of the organization, Scientology.

8 Moxon then came back to see what we were
9 reviewing.

10 Q Mr. Armstrong was with you then,
11 reviewing that Gaw file?

12 **A** **Yes.**

13 Q What did Moxon do or say, if anything,
14 when he came back?

15 A He came back up and tried to make small
16 talk about something of the druthers which was
17 obviously unimportant, but he was trying to get some
18 points on incidences and associations. And obviously
19 wanted to find out what we were reading, so he had to
20 peer over our shoulders.

21 I basically had shown the file to Jerry
22 Armstrong.

23 Q How long between the time Mr. Moxon left
24 you guys in the hall and when he re-joined you around
25 the Gaw file?

13 1 A Say that again.

2 Q About how much time passed between the
3 time Moxon walked up the hall and left you two there
4 and rejoined you in the file room looking at the Gaw
5 file?

6 A Briefly.

7 He had obviously walked down the hall and
8 realized once an association of that kind had been
9 made he had to investigate it further or else he would
10 be RPF'd.

11 Q The second encounter, Mr. Armstrong --
12 And you were looking at this "J.J. Gaw
13 Investigations Inc. versus United States," 91-2107
14 (JSL)?

15 You were doing that when Mr. Moxon
16 returned, is that correct?

17 A I think that's a fair characterization.

18 Q Why were you looking at the case file?

19 A 'Cause it's a public record and I like to
20 read those kind of things.

21 Q Did you make a special trip to the
22 federal courthouse to do that?

23 A No.

24 Q You were going to the federal courthouse
25 for other reasons then that day?

14 1 A Yes.

15 2 Q How were you dressed?

16 3 A I don't recall.

17 4 Q Business suit?

18 5 A I just said I don't recall.

19 6 Q Okay.

20 7 How did you find out about "J.J. Gaw
21 8 Investigations Inc. versus United States?" How did
22 9 you find out there was such a case?

23 10 MR. PARKER: This is a little far afield.
24 11 This is part of the pattern, they want to take into
25 12 account all these other cases.

26 13 THE REFEREE: I'll treat this as
27 14 preliminary --

28 15 A I'll claim work product privilege on
29 16 that.

30 17 Q BY MR. DRESCHER: You're invoking the
31 18 work product doctrine under federal law or state law?

32 19 A I don't know. Whichever one does me the
33 20 best.

34 21 MR. DRESCHER: Good answer.

35 22 THE WITNESS: Thank you.

36 23 Q BY MR. DRESCHER: For what client?

37 24 A Potentially myself and/or the Aznarans.

38 25 Just to clarify the record, the work

14 1 product privilege. And I'm exerting it on my own.
2 I'm not doing it for any clients.

3 Q That's a lawyer's privilege is what
4 you're telling me?

5 A You got it. Under California or federal.

6 Q I believe that's right.

7 I also believe it involves documents.
8 What documents are you asserting?

9 MR. PARKER: I object to this line of
10 questioning.

11 He goes to a public place to review the
12 file. That's his privilege. He's not accused of
13 wrongdoing for having looked at a public record.

14 MR. DRESCHER: That's not true.

15 THE REFEREE: I'll sustain the objection
16 to the last question.

17 Q BY MR. DRESCHER: Did you have a case
18 number to the Gaw case when you arrived at the file
19 room to look at that file, Mr. Yanny?

20 A I don't believe so.

21 Q So you just managed to obtain it once you
22 got there?

23 You did not know the case number? Is
24 that your recollection of it now?

25 A Can I hear that again?

14 1 THE REFEREE: Did you have the number
2 when you got there or did you obtain the number after
3 you got there?

4 A I think I obtained the number after I got
5 there, from microfiche actually. I don't recall
6 exactly.

7 Q BY MR. DRESCHER: Did you ever have any
8 discussion about the file that Mr. Moxon observed you
9 and Mr. Armstrong reviewing with anyone by the name of
10 W-a-l-s-h?

11 A I don't recall.

12 Q Do you know the name, Stephen Walsh?

13 A Yes.

14 Q Who is Stephen Walsh?

15 A Stephen Walsh is, my understanding, is an
16 internal security man with the Department of Treasury.

17 Q You have had discussions on various
18 topics with Mr. Walsh over the years, have you not?

19 MR. PARKER: Objection, his conversation
20 with government officials has nothing whatsoever to do
21 with this lawsuit. He's not being accused of wrongful
22 conduct in connection with --

23 Q BY MR. DRESCHER: Mr. Yanny, in
24 describing the Gaw file you made reference to some
25 very specific things that to my understanding are not

14 1 in the Gaw file. And I would like to be able to try
15 2 to ascertain where --

16 THE REFEREE: What's that got to do with
17 4 this discovery in this litigation?

18 MR. DRESCHER: The discovery in this
19 6 litigation is into Mr. Yanny's fiduciary breaches with
20 7 respect to the Aznarans and with respect to Mr.
21 8 Armstrong.

22 With respect to Mr. Armstrong, Mr. Yanny
23 10 made the claim in the circumstance in which we have
24 11 now had a work product assertion. You're looking at
25 12 files directly related to an independent contractor
26 13 hired by some Church lawyers.

27 He has also in the course of his response
28 14 to what the J.J. Gaw case was about made specific
29 15 reference to those matters not in that case.

30 THE WITNESS: That's untrue. Read the
31 17 file.

32 THE REFEREE: Just --

33 MR. DRESCHER: And I believe we're
34 20 entitled to probe the source of those in connection to
35 21 Carl Armstrong, and the extent to beyond which this
36 22 represents perhaps a further breach of which we're
37 23 unaware.

38 MR. PARKER: It is not a subject matter

14 1 of this complaint.

2 He's reviewing public records. He is
3 privileged to do that. He doesn't even have to have a
4 reason to do it.

5 THE REFEREE: Objection sustained to this
6 question.

7 We're going to break for lunch now. It's
8 five minutes to 12:00. I'll ask you to be back at
9 five minutes to 1:00 so we can resume and proceed
10 expeditiously.

11

12 (At the hour of 12:00 p.m. the,
13 luncheon recess was taken, the
14 proceedings to be resumed at 1:00 p.m.)

15

16 (At the hour of 1:00 p.m.
17 the following proceedings were had
18 at the same place with the
19 same persons present:)

20

21 THE REFEREE: The Referee will note for
22 the record that everybody was cooperative in returning
23 promptly from the lunch hour. I think I was the last
24 one to arrive. So we'll resume.

25 MR. DRESCHER: Thank you, Your Honor.

15 Q BY MR. DRESCHER: Mr. Yanny, we left off
1 in the midst of the second of what you have now
2 identified as three encounters between you and Mr.
3 Moxon and Mr. Armstrong, sometime last summer at the
4 federal court house.

6 The second being that which Mr. Moxon
7 observed you and Mr. Armstrong reviewing the "J.J. Gaw
8 versus United States" file. Are we up to where we
9 are? Is that your recollection where we left off?

10 A I don't recall where we left off.

11 Q It's mine, so let's proceed from that
12 point.

13 During that encounter in which you three,
14 again, were in the same place around the Gaw file,
15 what, if anything, was said by Mr. Moxon?

16 A To the best of my current recollection he
17 asked about some kind of stipulation or something.

18 I really can't remember. I'd have to
19 reflect on that a little bit. He made some small talk
20 about some kind of stipulation or something.

21 Q You don't remember what kind of
22 stipulation or what specific --

23 A No. I believe it had something to do
24 with a pending suit.

25 Q What, if anything, did Mr. Armstrong say

15 1 at that time?

2 A To the best of my current recollection I
3 don't recall Jerry saying anything at that time.

4 Q What, if anything, did you say?

5 A To the best of my current recollection, I
6 don't recall.

7 I must have made small talk back with
8 Moxon and made some comment back, you know, to the
9 effect you should read this file maybe. Interesting
10 file.

11 Q Being the Gaw file?

12 A Exactly.

13 Q How long was Mr. Moxon with you at the
14 Gaw file?

15 A Like --

16 Again, I'm terrible at those kinds of
17 estimations. I wouldn't want to guess.

18 It wasn't very long.

19 Q Who told you about the existence of the
20 Gaw file?

21 A I don't think that anybody did.

22 Q How did you know it existed?

23 A I came across it on microfiche I believe.

24 Q Just randomly looking at maybe
25 microfiche?

15 1 A I was looking for something else
16 2 actually.

17 3 MR. PARKER: Your Honor, that's not
18 4 relevant to this case, what he was doing.

19 5 MR. DRESCHER: It is because the presence
20 6 of Mr. Yanny and Mr. Armstrong around a Church file in
21 7 a situation in which I will tell you Mr. Moxon has
22 8 submitted declarations that it was pretty much an al
23 9 fosso gastrong (phonetic). When he asked if Mr. Yanny
24 10 was representing Armstrong, Mr. Yanny said yes and Mr.
25 11 Armstrong said no.

16
17 12 And to the extent that Mr. Yanny was
18 13 asserting a work product privilege to something similar
19 14 to this question earlier, this is clearly not an
20 15 impression or conclusion or a judgment reached by a
21 16 lawyer, it is how Mr. Yanny was even aware of the
22 17 thousands of cases that there even was such a file.
23 18 It's directly pertinent to this inquiry of Mr.
24 19 Armstrong's relationship.

25 20 MR. PARKER: The same kind of question we
26 21 talked about before.

27 22 THE REFEREE: I'm going to sustain the
28 23 objection.

29 24 I really can't see that this could lead
30 25 to anything relevant in this particular litigation.

1 MR. DRESCHER: Your Honor, we have here a
2 situation, I think -- if I can just re-argue this?

3 THE REFEREE: Go ahead.

4 MR. DRESCHER: I think Your Honor can
5 certainly draw his own conclusions from the testimony
6 that Your Honor has already heard.

7 And I believe Your Honor is aware from
8 the matters that have been filed before you that this
9 is not the first such case, this is not the first such
10 preliminary injunction. And indeed, Mr. Yanny has
11 given a pattern of breaching his fiduciary nature.

12 This is a man who is out to hurt his
13 clients. That goes to pattern and practice, that goes
14 to the issue of punitive damages, because indeed the
15 specific allegations of paragraphs 28 and 36 of the
16 complaint that Mr. Yanny has "undertaken conduct with
17 respect to Armstrong and the Aznarans for the express
18 purpose of injuring his former clients," and it goes
19 to the extent of the fiduciary breaches which are all
20 part of that pattern and practice.

21 In that regard Mr. Yanny has made it
22 clear, through testimony, through declarations and
23 through other evidence throughout all of these
24 proceedings that he has at his heart the interests of
25 injuring his former clients. And that involves going

1 to the Internal Revenue Service. We have testimony
2 that he has done so, not from Mr. Yanny except to the
3 extent Mr. Walsh from the Treasury Department has been
4 in communication with Al Lipkin of the Criminal
5 Investigation Division and with collection agents such
6 as Sandra Baker. And we are entitled to probe that
7 because this matter of Armstrong and the Aznarans is
8 simply a manifestation of a broader breach. If it is
9 we should be able to show the pattern and practice.

10 MR. PARKER: We'll be here all day, not
11 only if we argue at length before, but after Your
12 Honor rules.

13 My client is not being sued for
14 cooperating with the government. Not that it's true.
15 Not that if it were a sin if it were true. We're
16 going to trial on April 27th on this complaint.

17 You would think, judging from Mr.
18 Drescher's comments, that his client was somehow a
19 part of the J.J. Gaw case.

20 THE REFEREE: Thank you folks.

21 I believe I have some understanding of
22 the thrust of what plaintiff is seeking here. I have
23 some idea of what Mr. Yanny has said in his responsive
24 papers. And I'm certainly in agreement that it's
25 appropriate to have a referee at the taking of the

1 deposition.

2 I do not see that it's useful or
3 appropriate to require a response to that question,
4 Mr. Drescher. So let's go to another question.

5 Q BY MR. DRESCHER: I will Your Honor.

6 Apart from whether you have already told
7 us, Mr. Yanny, during that second encounter with Mr.
8 Moxon, in Mr. Armstrong's presence at the courthouse,
9 what, if anything else, was said by anybody?

10 A I don't have a recollection of anything
11 else being said.

12 Q Did someone leave the room?

13 A Yeah, Moxon left.

14 Q Do you know where he went?

15 A Yes.

16 Q How do you know where he went?

17 A Because I observed him.

18 Q Where did he go?

19 A To the telephone.

20 Q Did you listen to Mr. Moxon's telephone
21 conversation?

22 A It was a public telephone in the, near
23 the Main Street exit of the entrance to the federal
24 courthouse there at 312 North Spring on the Main
25 Street side of things.

1 I left, returned the file, went walking
2 out, watched Moxon. I walked over and got in line
3 just like everybody else behind him, waiting for the
4 telephone. And it just happened to be at the
5 telephone that Moxon was talking on.

6 When he observed me standing behind him
7 he immediately terminated the conversation and
8 proceeded to walk upstairs to the Spring Street level
9 of the Federal Court House.

10 I gave him a few minutes, knowing full
11 well where the telephones are upstairs. And I then
12 out of curiosity walked up to see what Mr. Moxon was
13 doing. And low and behold my prediction was right, he
14 was up there on the telephone upstairs.

15 And he noted me, terminated his phone
16 call. And I said, "the one downstairs one didn't
17 work, I guess." Of course it worked just fine.

18 Then Moxon left.

19 Q The question was did you overhear any
20 part of Mr. Moxon's phone call?

21 A Just saying goodbye.

22 Q And nothing else?

23 A No, not as I recall.

24 Q How many people were on line with you
25 while Mr. Moxon was with you?

17 1 MR. PARKER: In line or on line?

2 2 MR. DRESCHER: I'm from the east, it's on
3 line.

4 4 THE REFEREE: Was anybody standing
5 between you and Mr. Moxon when he was on the
6 telephone?

7 A No.

8 Q BY MR. DRESCHER: Then did you and Mr.
9 Moxon have any other communication between you at the
10 courthouse that day?

11 A No.

12 Q Did Mr. Armstrong accompany you as you
13 followed Moxon from phone to phone?

14 A I don't recall currently.

15 Q That was the end of your encounters with
16 Mr. Moxon on the day in which he spotted you and Mr.
17 Armstrong together at the courthouse, is that right?

18 A I may have seen him a little later that
19 day walking across Spring Street, back from the, where
20 that little plaza is there where they have all those
21 fast food outlets that I'm sure you don't eat at.

22 MR. DRESCHER: Look at me Joe, I eat at
23 them.

24 A I think he walked across the street later
25 that day.

1 Q BY MR. DRESCHER: How long were you and
2 Mr. Armstrong at the courthouse in toto?

3 A I don't know. I wouldn't want to guess.

4 Q Do you have any idea?

5 A That's what I just said.

6 Q To whom did you describe the events of
7 that day with Mr. Moxon, other than to me right now?

8 MR. PARKER: I'm sorry. I'm confused
9 about the time frame.

10 Q BY MR. DRESCHER: Any time after that
11 day, to whom, if anyone, did you describe the events
12 of that day at the courthouse?

13 MR. PARKER: I object Your Honor, the
14 question is broad enough to include conversations with
15 me.

16 THE REFEREE: Sustained as to form.

17 Q BY MR. DRESCHER: Apart from your
18 lawyers, to whom did you describe your encounters with
19 Mr. Moxon on that day?

20 A At present, I don't recall.

21 Q Do you recall describing them to anyone
22 other than to your lawyers?

23 A As I sit here today?

24 No.

25 Q You never discussed it with the Aznarans?

17 1 A I just got done saying as I sit here
18 2 today I don't recall.

19 3 Q And I asked you do you recall -- trying
20 4 to jog your memory -- whether you discussed it with
21 5 either Aznaran?

22 6 A As I told you before, as I sit here
23 7 today, I don't recall.

24 8 Q You don't recall ever having discussed it
25 9 with anyone else?

26 10 MR. PARKER: Asked and answered.

27 11 THE REFEREE: That's the state of the
28 12 testimony.

29 13 Q BY MR. DRESCHER: Mr. Yanny, in December
30 14 of 1991 you intervened in a proceeding between Church
31 15 of Scientology of California I believe, and Gerald
32 16 Armstrong, in Los Angeles Superior Court, did you not?

33 17 A I believe there was more than one party
34 18 to that intervention. I believe it was Mary Sue
35 19 Hubbard.

36 20 I believe it was Church of Scientology
37 21 California. I believe that various parties were
38 22 involved from the organization side of things.

39 23 Q They were all involved when you filed
40 24 your application for intervention though, weren't
41 25 they?

1 A Probably.

2 Q And you did apply to intervene in that
3 case around December 3, 1991, didn't you?

4 A Yes, I did. I'm not sure of the exact
5 date.

6 Q The first week in December?

7 A There was a motion --
8 Just to set the record straight, there
9 was a motion for you all in a star chamber proceeding
10 to enforce, in a confidential setting, a sealed
11 record, and behind closed doors, a settlement
12 agreement, on certain provisions of that settlement
13 agreement.

14 Q Mr. Yanny, I asked --

15 MR. DRESCHER: I'm going to move to
16 strike as non-responsive, everything that he has said
17 to that question.

18 MR. PARKER: Before you repeat the
19 question let me stake out two objections.

20 This is another example of inquiring
21 about litigation that is not related to this case.
22 And secondly, this relates to conduct that occurred
23 subsequent to the filing of this lawsuit and
24 subsequent to the time frame described in the
25 complaint.

17 1 No supplemental complaint has been filed
1 2 alleging conduct after the preliminary injunction in
2 3 any way wrongful, so this is beyond the scope of
3 4 discovery in both the temporal sense and discovery
4 5 matter.

6 MR. DRESCHER: In the temporal sense it
7 is perfectly relevant because Mr. Yanny is subject to
8 a preliminary injunction. In a substantive section,
9 387 of the Code of Civil Procedure sets forth the
10 requirements for an intervention, and perhaps a
11 foundational question should have been asked before I
12 launched into this argument.

13 The simple truth of the matter is in
14 order to intervene, the person who seeks to intervene
15 must have an interest in the litigation, the subject
16 matter of the litigation, or in the success of either
17 of the parties, or an interest against both of the
18 parties.

19 And an intervention can only take place
20 when a third party is permitted to become a party to
21 the action or proceeding, either by joining the
22 plaintiffs or by uniting with the defendants and
23 resisting what the plaintiff seeks or by making
24 demands adverse to both the plaintiff and defendant.
25 I believe Your Honor has seen the preliminary

1 injunction in this case.

2 THE REFEREE: I think I did.

3 MR. DRESCHER: But in paragraph 1-D of
4 that Judge Cardenas hastened to add that "Yanny shall
5 not represent Armstrong directly or indirectly in any
6 legal proceeding against plaintiff's without
7 plaintiff's prior written consent or further court
8 order."

9 Whether it's viewed as a violation of the
10 preliminary injunction, which certainly is relevant in
11 the discovery proceeding, or whether it is viewed as
12 simply an extension of ongoing breaches of fiduciary
13 duty between Mr. Yanny, with Mr. Yanny with respect to
14 Mr. Armstrong, his intervention into that case --
15 which by the way was allowed in that case -- and a
16 subsequent effort now ongoing to intervene on behalf
17 of Mr. Armstrong's positions in another case, are
18 certainly relevant to the issue of his ongoing
19 breaches, and also with respect to the preliminary
20 injunction issued in this case. I think we're
21 entitled to explore into those areas.

22 MR. PARKER: If he violated the
23 injunction three and a half months ago I'm sure Mr.
24 Drescher would have brought that to Judge Cardenas'
25 contention. And that would have been one of the main

1 arguments they would have made to his successful
2 invention.

3 This is not relevant to this case.

4 MR. DRESCHER: The proceeding was
5 dismissed on jurisdictional bases as to the claim
6 between the Churches and Mr. Armstrong.

7 THE REFEREE: Thank you folks.

8 Generally speaking, I do not sustain the
9 objection. I do not have in mind what the actual
10 question is that elicited all of this.

11 MR. DRESCHER: I'll tell you the truth, I
12 don't remember the exact point.

13 THE REFEREE: Let's ask another question.

14 Q BY MR. DRESCHER: In seeking to intervene
15 in the proceeding brought against Mr. Armstrong in
16 December of 1991, on what basis did you seek that
17 entry?

18 MR. PARKER: Your Honor, it is a matter
19 of record the basis on which the action was brought.
20 That's why we're not litigating that lawsuit here.

21 That was presented to a court of
22 competent jurisdiction, who ruled in my client's
23 favor. Why are we going into what the public record
24 holds?

25 MR. DRESCHER: It's not a matter of

1 public record.

2 I'm asking Mr. Yanny specific questions
3 concerning whether he viewed himself as a person who
4 was interested in the success of Mr. Armstrong's
5 case --

6 By the way, on the record during the
7 hearing before the court ever addressed Mr. Yanny's
8 intervention there was a lengthy, most of the day
9 hearing on the subject matter of the actual proceeding
10 to which Mr. Yanny sought to intervene, in which Mr.
11 Yanny on a number of occasions actually spoke out on
12 behalf of Mr. Armstrong. The whole thing was
13 dismissed jurisdictionally.

14 It is going on right now in Marin County
15 in a separate action. And we're entitled to know if
16 Mr. Yanny's just trying to use the back door to
17 continue to represent Mr. Armstrong.

18 THE WITNESS: As counsel in that
19 particular proceeding -- which is very interesting Mr.
20 Drescher calls a proceeding since there really was no
21 complaint to join in or against -- there was an
22 attempt to enforce a confidential settlement agreement
23 in which the parties allegedly had conferred
24 jurisdiction on the court to enforce the proceeding.

25 That agreement never went to the court

18 1 for approval and the court declined jurisdiction on
19 2 that basis. There was no separate action filed, so I
20 3 could not file a complaint in intervention. The best
21 4 I guess I could do is what I'm attempting, to go up
22 5 north at present, and that is to intervene for
23 6 declaratory judgment that the matter be declared null
24 7 and void.

8 In the transcript at the hearing
9 regarding the issuance of the preliminary
10 injunction -- and this predates Mr. Parker -- Judge
11 Cardenas specifically said that I would not be
12 prevented by the preliminary injunction from gathering
13 evidence in defense of myself. I would not be
14 prevented from gathering evidence to further my own
15 cross-complaint, if any.

16 That I would not be prohibited by the
17 preliminary injunction from initiating other actions
18 such as a request to intervene in a proceeding -- not
19 a lawsuit -- that involved an attempted enforcement of
20 a contract when no case had been filed by my esteemed
21 opposition for breach of contract.

22 That was necessary that the pleading
23 before you, Exhibit 1, alleges that I breached my
24 fiduciary duties by representing Armstrong in a
25 particular case, to-wit, the one that the settlement

18 1 agreement with respect to -- you'll excuse the
19 2 dangling participle -- was attempted to be enforced.

19 3 I attempted to protect my own ability to
1 4 gather evidence, unfettered, in my own defense with
2 5 respect to the allegations made against me in Exhibit
3 6 1. If these people thought there was a contempt they
4 7 would have most certainly brought it up before Judge
5 8 Cardenas. To date no motion of that has been made.
6 9 The intervention was granted.

10 MR. DRESCHER: And the proceeding was
11 dismissed. Section 387 A, it was actions or
12 proceedings. The point being with respect at least to
13 the December proceeding in front of Judge Geernaert,
14 he intervened so that the matter be declared null and
15 void, in other words, on behalf of Armstrong to gather
16 evidence for this proceeding which is all I'm trying
17 to do.

18 And if it's relevant for him it's
19 relevant for us. We're entitled to explore as a
20 matter of the pattern and practice, the ongoing
21 breaches and the nature of the fiduciary breaches that
22 our clients have suffered that is just underlined
23 every time Mr. Yanny opens his mouth with his
24 non-responsive answers, with his client bashing. This
25 is directly because of statutory language relevant to

19 1 this proceeding.

2 THE REFEREE: I think you can inquire
3 further into this. We'll see if it amounts to
4 anything in the long run.

5 Q BY MR. DRESCHER: Mr. Yanny, in making
6 your intervention in the Los Angeles action between
7 various Churches and Mr. Armstrong, were you entering
8 that case to, for any purpose other than to gather
9 evidence as you say?

10 MR. PARKER: I object on grounds of work
11 product.

12 At that point in time my client was
13 between lawyers. I had not yet come in. But Mr. Van
14 Sickle was on his way out. My client acting for
15 himself initiated that proceeding to try to pry open
16 the sealed doors to that file.

17 THE REFEREE: So you're saying he was his
18 own counsel at that time?

19 MR. PARKER: Right.

20 And they want his mental impressions on
21 how he was defending himself.

22 MR. DRESCHER: He wasn't defending
23 himself.

24 He either has to come claiming an
25 interest sought by the complaint, united with a

19 1 defendant, or demanding his adversary as to both.

2 Q BY MR. DRESCHER: My question, Mr. Yanny,
3 is this.

4 Were you in making your intervention in
5 Los Angeles joining the Churches in the relief they
6 sought?

7 MR. PARKER: I object on the same
8 grounds.

9 It's absolutely privileged, his mental
10 impression.

11 MR. DRESCHER: It's not a mental
12 impression.

13 MR. PARKER: If he stated it's a matter
14 of record. If he didn't it's a matter of his mental
15 impressions.

16 MR. DRESCHER: He didn't state it.

17 A The easy way to do that is to unseal the
18 file you have sealed, because my statement as to why I
19 was intervening was already in that file.

20 But don't you want the sauce with the
21 goose?

22 THE REFEREE: Now gentleman.

23 When you wear two hats you just have to
24 resolve the questions as they come up.

25 I'll overrule the objection on this

19 1 particular question.

2 MR. DRESCHER: Thank you.

3 THE REFEREE: If you have it in mind you
4 should answer it. If you don't have it in mind --

5 MR. PARKER: The question is whether you
6 were intervening on behalf of the Church?

7 MR. DRESCHER: That's not right.

8 THE REFEREE: That might have been the
9 last question.

10 The question that I think is appropriate,
11 if there is one that's appropriate, is what was your
12 intention in intervention?

13 You said you did it to --

14 MR. DRESCHER: With respect, Your Honor,
15 that was not my question.

16 THE REFEREE: State your question.

17 I'm glad to say I'm wrong. State your
18 question.

19 Q BY MR. DRESCHER: I wanted to know
20 specifically whether in making the intervention in
21 this effort Mr. Yanny was joining the Church which he
22 is in claiming what is sought by them in their
23 proceeding?

24 A Without the papers that you all filed
25 with respect to that secrecy agreements wherein you

19 1 tried to silence Armstrong from being able to
2 voluntarily assist people, without that I really
3 couldn't make an evaluation at present.

4 Q Did you want the Church to win the
5 proceeding they brought against Mr. Armstrong?

6 A What was the proceeding?

7 Q The preceeding was the enforcement.

8 A Of the silence provisions?

9 MR. DRESCHER: No, Mr. Yanny, and if you
10 want me to ask the questions I will.

11 THE WITNESS: Go ahead.

12 Q BY MR. DRESCHER: You intervened in the
13 case, didn't you?

14 A First of all, in the proceeding. There
15 was no case.

16 Q Did you want Mr. Armstrong to prevail in
17 that proceeding and -- strike.

18 By intervening did you support Mr.
19 Armstrong's attempts to defeat the proceeding brought
20 by the Church's counsel?

21 A By my intervention I sought to preserve
22 my ability to gather evidence unfettered by a secrecy
23 provision of the agreement that you seem to keep
24 sealed in the records of the courthouse down there, so
25 I could gather evidence without undue expense without

20 1 undue burden and without you looking over my shoulder
2 while I'm preparing my case. That's all I know how to
3 answer you.

4 Q In intervening in that case, Mr. Yanny,
5 were you seeking to unite yourself with Mr. Armstrong
6 in resisting the claims of the plaintiff?

7 A No.

8 MR. PARKER: I object to the question.
9 It's harassment.

10 THE REFEREE: Now he said also, no.

11 MR. DRESCHER: I'm just going through
12 the --

13 THE REFEREE: I'm not arguing with any of
14 you. I'm asking --

15 You asked a question, it was answered. I
16 overruled the objection.

17 A I don't know how really to answer your
18 question. I was doing what I just said I was seeking
19 to do.

20 Q BY MR. DRESCHER: Nothing more? Nothing
21 less?

22 A I take that back, I was also seeking to
23 have access to the files. I was seeking to have them
24 at least limited unsealed so that I could get access
25 to evidence which I needed to defend myself since the

20 1 complaint specifically says I was counsel of record
2 for you all on that side of the table in the Armstrong
3 case.

4 And that also was granted.

5 Q So you were counsel of record for the
6 Churches in the Armstrong case?

7 A No.

8 MR. DRESCHER: Isn't that what you just
9 said?

10 MR. DRESCHER: Let me hear it back.

11 THE WITNESS: I said you made the
12 allegations in the complaint.

13

14 (The record was read as follows:

15 A I take that back, I was
16 also seeking to have access to the files.
17 I was seeking to have them at least
18 limited unsealed so that I could get
19 access to evidence which I needed to
20 defend myself since the complaint
21 specifically says I was counsel of record
22 for you all on that side of the table in
23 the Armstrong case.)

24

25 Q BY MR. DRESCHER: Mr. Yanny, you're

20 1 aware, are you not, that a number of churches have
2 2 brought a suit against Mr. Armstrong in Marin County
3 3 that's currently pending?

4 A I don't know that there are a number of
5 Churches represented on your side of the table.

6 There is one organization. You can call
7 it what you want. I'll call it what I want.

8 Q At least one of your former clients has
9 initiated a lawsuit against Mr. Armstrong in Marin
10 County, is that correct?

11 A I am aware that there has been a
12 proceeding instituted in Marin County against Mr.
13 Armstrong.

14 Q That is a lawsuit for breach of contract?
15 MR. PARKER: Objection, those pleadings
16 will speak for themselves.

17 THE REFEREE: I think you can testify as
18 to your understanding, if you have one, as to what the
19 suit is about.

20 A I don't currently, as I sit here, have
21 any understanding except what that suit is about
22 except you're trying to silence one more time.

23 Q BY MR. DRESCHER: Have you made an effort
24 to intervene in that suit?

25 MR. PARKER: I am his lawyer and I have

1 filed papers up there, and this lawsuit has nothing to
2 do with that.

3 A (No response)

4 Q BY MR. DRESCHER: You have had your
5 attorneys file lawsuit, excuse me, an intervention
6 motion in the Marin County case in at least one of the
7 Churches and Mr. Armstrong --

8 A As to what I had my attorneys do and not
9 do, I believe is privileged.

10 Q You don't have any understanding what the
11 subject matter of the lawsuit is?

12 A It's my understanding that you're trying
13 to silence Armstrong regarding the secrecy proceedings
14 and noncooperation provisions of his settlement
15 agreement. And that would put an undue burden on my
16 ability to defend myself in this case.

17 Q Therefore you are seeking to intervene to
18 defeat the Church's claims against Mr. Armstrong, is
19 that correct?

20 A I am seeking to have my ability to gather
21 evidence unfettered by collusive patterns and
22 practices intended to do nothing but obstruct justice
23 and promote fraud on the court, so I can defend this
24 case.

25 Q The collusion, to whom do you refer?

1 MR. PARKER: Let me just object.

2 MR. DRESCHER: Excuse me.

3 MR. PARKER: Your Honor, if we were in
4 trial I would ask for an offer of proof. And I think
5 it's appropriate to ask for one.

6 This is a pending proceeding that is
7 before the court, and it's in Marin County. I have
8 filed certain papers because my client is being
9 accused of various actions.

10 It's very clear to me that they're going
11 to try to drag him into Marin County. But in the
12 meantime they're seeking a preliminary injunction that
13 would gag Mr. Armstrong -- who is among the three
14 critical witnesses in this case -- the Aznarans and
15 Mr. Armstrong.

16 So we have intervened to try to protect
17 his ability to give us testimony in this case. In
18 fact, give testimony next week when he appears before
19 Your Honor. But none of that has to do with this
20 lawsuit.

21 MR. DRESCHER: If Mr. Parker would
22 correctly characterize the provision it would say Mr.
23 Armstrong shall comply with lawful process.

24 As far as getting any testimony next
25 week, it's nonsense, he's been subpoenaed.

1 As far as the rest of the explanation, I
2 have just about concluded this line of questioning.
3 It is clear Mr. Yanny has expressed what his view is
4 and it's also clear what the statute requires and how
5 that evidence is judged is how that evidence is
6 judged.

7 I'm not particularly concerned about
8 that, but I will ask one or two more questions about
9 the Marin County matter Mr. Yanny.

10 MR. PARKER: I made an objection. I'm
11 entitled to a ruling.

12 THE REFEREE: Have you given up on your
13 question?

14 MR. DRESCHER: No. In fact, there was no
15 question pending.

16 THE REFEREE: I didn't think there was.

17 MR. PARKER: That's true, there was no
18 question pending.

19 I was trying to do this in an orderly way
20 before we got too far down the road.

21 THE WITNESS: There was a question
22 pending. It was what's the collusion.

23 MR. DRESCHER: No, there wasn't.

24 Q BY MR. DRESCHER: Did you discuss with
25 Mr. Armstrong the matter of your attempted

1 1 intervention in the Los Angeles proceeding before you
2 made such application?

3 MR. PARKER: That calls for a yes or no.

4 A Yes.

5 Q BY MR. DRESCHER: How many occasions?

6 MR. PARKER: Objection, it's irrelevant,
7 not reasonably calculated to lead to the discovery of
8 admissible evidence, and violates the attorney-client
9 and work product and priest-penitent privileges.

10 THE REFEREE: We're just talking about
11 numbers at the moment. I'll overrule those
12 objections.

13 A I don't know.

14 Q BY MR. DRESCHER: More than once?

15 A Maybe.

16 Q You did not appear as counsel for Mr.
17 Armstrong in the proceeding before Judge Geernaert,
18 did you?

19 A No, I did not.

20 Q You represented only yourself in that
21 proceeding?

22 A That's right.

23 Q Tell me --

24 A Perhaps my corporation. I don't
25 remember.

1 Q I don't either, but it was either
2 yourself or your corporation?

3 A I was trying to complete my answer.

4 Q What did you talk to Mr. Armstrong about
5 before --

6 MR. PARKER: I reiterate those same
7 objections.

8 THE REFEREE: Let's talk about the scope
9 of these objections again.

10 What are your thoughts here Mr. Drescher?

11 MR. DRESCHER: It's the same as before.

12 The Statute Section 387-A requires one of several
13 factors for an intervention. And the factors are very
14 clear.

15 The intervenor has to either join the
16 plaintiff in claiming what is sought by the complaint,
17 unite with the defendant in resisting the claims of
18 the defendant, or by defending anything adversely to
19 both. That's the only way that an action or
20 proceeding will be allowed.

21 Mr. Yanny testified he did not represent
22 Mr. Armstrong with respect to those proceedings. Mr.
23 Yanny has not testified to any motivation other than a
24 desire to get evidence. It is therefore inconceivable
25 to me that discussions between Mr. Armstrong and Mr.

1 1 Yanny concerning his intervention could possibly come
2 within any sort of privilege and directly relate to
3 the issue of ongoing fiduciary breaches between Mr.
4 Yanny and Mr. Armstrong which led to the preliminary
5 injunction, and which from the suggestion of the Marin
6 action, continues to this day.

7 MR. PARKER: I would remind the court of
8 a statement that Mr. Drescher and Ms. Bartilson made
9 last time I think we were all together and I was
10 present.

11 And that is my client is not being sued
12 for breaches of confidentiality in the sense of
13 disclosing to Armstrong or to the Aznaran's
14 confidence. We might as well turn the question around
15 and say how could it possibly be probative of any
16 material issue in this case?

17 MR. DRESCHER: It begs the issue of Mr.
18 Yanny's duty of loyalty and the duty to his former
19 client.

20 More than that, he already testified he
21 didn't represent Armstrong.

22 MR. PARKER: Your Honor, when a client
23 sues a lawyer the lawyer is entitled to defend
24 himself. And that is a matter of statute and case
25 law.

1 THE WITNESS: I would also interject
2 during those inventions any conversation that you had
3 with Armstrong regarding that intervention -- which
4 was my participation in a proceeding -- are privileged
5 under the work product, both as to that proceeding or
6 this one.

7 THE REFEREE: Mr. Drescher, are you
8 seeking to develop some evidence that Mr. Yanny
9 behaved improperly in giving information or in seeking
10 information?

11 MR. DRESCHER: We're concerned in this
12 action only with the fiduciary breach of the duty of
13 loyalty. So therefore we're looking toward giving --
14 whatever Mr. Armstrong might have shared with Mr.
15 Yanny, if anything, that's not before Judge Cardenas
16 in this case.

17 What we are seeking to show is that the
18 breach of his fiduciary duty to his former clients has
19 persisted and has persisted with respect to Mr.
20 Armstrong, and that the evidence that we're looking
21 for right now is relevant because it could lead to the
22 admissible evidence concerning ongoing breaches, both
23 in and of itself, and in violation of the preliminary
24 injunction.

25 THE WITNESS: I might note for the record

2 1 that insofar as the fact that these people have
2 2 brought suit against me gives me the right to defend
3 3 myself and to do whatever is necessary to gather the
4 4 evidence that I need to defend myself.

5 And that includes, according to the
6 transcript during the hearing on the preliminary
7 injunction, the right to institute other proceedings
8 if I see fit. The propriety. The matter may be res
9 judicata in that Judge Geernaert has already ruled
10 that I had the right to intervene.

11 And subject to relevancy rulings by Your
12 Honor I will have access to those sealed files so I
13 can adequately defend myself in this case. I would,
14 for the record, indicate insofar as that is concerned
15 the matter may be used res judicata.

16 Insofar as they seek to find out what I
17 said in the gathering of information so that I could
18 defend myself, it violates my right of work product
19 privilege.

20 Insofar as they seek to gather
21 information related to my ability to properly present
22 a petition for intervention in the Geernaert
23 proceeding, that matter has already been ruled upon.
24 It was appropriate for me to intervene at that time.
25 It was appropriate for me to get access to those

2 1 files. Judge Geernaert has so ruled.

2 Insofar as what I may have said in the
3 gathering of information necessary to defend myself or
4 to present that petition, I'm exerting the work
5 product privilege.

6 MR. DRESCHER: This is one of the most
7 peculiar and expansive --

8 I wanted to know what was said between
9 Mr. Yanny and Mr. Armstrong concerning his
10 intervention in the Los Angeles proceeding.

11 You have already established that there
12 was no attorney-client relationship between the two at
13 the time. Mr. Yanny is trying to twist a privilege
14 that includes conclusions, impressions, judgments and
15 other arts of the lawyer trade, and try to superimpose
16 that on a question that's asking for facts.

17 THE REFEREE: I don't think the obtaining
18 of information in and of itself is included absolutely
19 in any work product privilege. How you use it, what
20 you do with it, how you interpret it might well be,
21 might well get us involved in a work product problem.

22 I don't think the fact that Mr. Yanny may
23 have asked a question of Mr. Armstrong in itself would
24 convert something into a work product, but we'll take
25 those as they come.

2 1 So at this time, in this discovery, the
3 objection, the work product objection is overruled and
4 you should answer the questions as to what your
5 conversation was with Mr. Armstrong on this particular
6 occasion.

7 6 MR. PARKER: Can I inquire, Your Honor,
8 because this is going to be very useful to me when I
9 take Mr. Drescher's deposition?

10 9 THE REFEREE: All take turns being the
11 chicken and egg.

12 11 MR. PARKER: Mr. Drescher would not sit
13 here in front of Your Honor saying if I had conducted
14 an interview with Mr. Armstrong that he could take my
15 deposition and inquire. If that is the case we are to
16 depose Mr. Yanny because he represents himself, that
17 is an exception to the work product privilege.

18 17 They have the right to represent
19 themselves and they don't forfeit the work product
20 privilege. I want to inquire because when I take Mr.
21 Drescher's deposition, believe me, I will do the same
22 thing.

23 22 THE REFEREE: And I will try to be
24 consistent in my rulings.

25 24 MR. DRESCHER: I trust Your Honor will.

 25 THE WITNESS: And I have preserved my

2 1 privilege and refuse to answer the question despite
2 the Referee's ruling.

3 MR. DRESCHER: I'm going to ask for a
4 specific order, Mr. Yanny, to answer that question.

5 MR. PARKER: He respectfully refuses.

6 If you disclose the information, even in
7 the face of a court order -- and I accept that Your
8 Honor's order would be a court order -- the cat's out
9 of the bag.

10 In order to preserve and have any
11 meaningful denovo review, should he elect to seek that
12 form of review, he's got to keep silent until the
13 matter can be finally determined.

14 THE REFEREE: If that's the way you want
15 to proceed, then you certainly can do that.

16 We'll see what position we reach here as
17 to what other relief anybody might end up finding
18 themselves entitled to.

19 MR. DRESCHER: In that regard we have now
20 had that assertion that interferes with this line of
21 questioning. Whether ultimately it's decided that
22 that particular privilege and refusal to answer,
23 despite the courts ruling, is well taken, is one
24 thing. Whether or not we ultimately get that question
25 answered is another.

3 1 The point being it has now reached the
4 2 stage where inquiry that the Referee has found to be
5 3 proper is not forthcoming, and I think it behooves us
6 4 to step back for a minute and address where that's
7 5 going.

8 6 Frankly, I intend to ask questions of Mr.
9 7 Yanny today that I anticipate will engender similar
10 8 types of objections, similar types of disagreements,
11 9 and from my prospective, similar type rulings.

12 10 And the purpose of a Referee deposition
13 11 is of course to sort this out and make it go more
14 12 smoothly. It seems to me it might do us all well to
15 13 stop and consider what we do from here. And I frankly
16 14 would like about five minutes to discuss this with my
17 15 client.

18 16 THE REFEREE: Take 10.

19 17

20 18 (Recess taken 1:45 p.m. to 2:00
21 19 p.m.)

22

23 21 THE REFEREE: We took a ten minute recess
24 22 so Mr. Drescher could consider his options and desires
25 23 and how he wanted his work product to develop.

26 24 MR. DRESCHER: I believe we left off with
27 25 an instruction not to answer on the basis of

3 1 attorney-client privilege.

2 MR. PARKER: That's not what the record
3 will reflect.

4 Q BY MR. DRESCHER: What did we leave off
5 with?

6 A I'm going to answer.

7 Q Fire away.

8 A Without waiving my objection, my
9 recollections of what I said to Mr. Armstrong
10 regarding my intervention probably wouldn't violate
11 any of my work product privilege anyway.

12 I think I just told him I was going to
13 intervene and I asked him when the hearing was set
14 for. To the best of my recollection. And there was
15 actually a cross-up in the dates of some sort --
16 that's about all I recall saying or asking Jerry about
17 the intervention.

18 Q No other discussions with him on the
19 subject, at all, to your recollection?

20 A Not that I recall.

21 Q Just that brief conversation you just
22 recounted of what you said to him?

23 A That may not have been in one
24 conversation. It may have been in more than one.

25 Q You had more than one conversation with

3 1 Mr. Armstrong on the subject, is that right?

2 A Two maybe, that I can recall.

3 Q Did I understand correctly that you may
4 be collapsing parts of the two conversations into that
5 one answer?

6 A It's been so long ago and it was so near
7 the holiday season.

8 Q Is that a yes or no, Joe?

9 A Yes. It is a yes.

10 Q Is it a yes that perhaps you have gotten
11 the two conversations mixed into one?

12 A I could have perhaps done that.

13 I don't recall obviously, or else I
14 wouldn't have to potentially collapse them.

15 Q Was either conversation face-to-face?

16 A Not that I recall.

17 Q Both telephonic?

18 A To the best of my recollection.

19 Q Do you recall who placed the first phone
20 call?

21 A No.

22 Q Do you recall who placed the second phone
23 call?

24 A No.

25 Q Was anyone else on the phone at your end

3 1 of either of those calls?

2 A No.

3 Q To your knowledge, was there anyone on
4 the other end, of Mr. Armstrong's end, in either of
5 those phone calls?

6 A Not to my knowledge, no.

7 Q No one else spoke during the conversation
8 except you and Mr. Armstrong?

9 A Unless one of his body thetans was acting
10 up I think it was just him.

11 And I don't have any thetans, I'm a
12 natural OT.

13 Q Mr. Yanny, what did Mr. Armstrong say to
14 you in the first of those telephone conversations?

15 A I don't recall except that Toby -- I
16 remember him saying that Toby was representing him in
17 the proceedings.

18 Q Toby Plevin?

19 A Yes.

20 And then I remember him saying that Ford
21 Greene was not representing him in the proceeding.

22 And I remember him giving me a date,
23 which date I can't recall, that was notable with
24 respect to the proceedings that were about to unfold.
25 That's about it.

3 Q Did he tell you when the hearing was set
4 for?

5 A Again, he gave me a date and a time that
6 was notable with respect to the proceedings.

7 How it related, I don't recall.

8 Q Have you had any discussions with either
9 of the Aznarans about your intervention on Mr.
10 Armstrong's behalf?

11 A Not that I recall.

12 Q Mr. Yanny, I'm going to go through a list
13 of names and let you know that I'm going to be asking
14 roughly the same question with respect to each of the
15 names.

16 I want to know since this lawsuit was
17 initiated -- and we can make reference to the
18 complaint in that regard, July 18, 1991 or
19 thereabouts -- have you had any communications on the
20 subject of this lawsuit with the following people:

21 Vicki Aznaran?

22 MR. PARKER: I object to the question on
23 the grounds that it violates the temporal scope of our
24 lawsuit.

25 My client is not accused of any
26 wrongdoing after that action was filed. Certainly not
27 after the preliminary injunction was entertained.

4 1 And secondly, I object to the question on
2 the grounds that if his answer is yes -- well, I guess
3 that's premature. If the answer is yes then we'll
4 have some other objections.

5 But I don't believe that any of these
6 conversations, if they took place, would be probative
7 with respect to any of the issues in the lawsuit.

8 MR. DRESCHER: Obviously the definition
9 of relevancy with respect to discovery includes
10 attempting to find witnesses in an effort to develop
11 further evidence.

12 What I'm seeking to do is obtain data
13 concerning Mr. Yanny's contacts, discussions
14 concerning the subject matter of this lawsuit. And in
15 every effort to conclude discovery, find other avenues
16 and prepare my case.

17 That is part of what discovery is about.
18 This is hardly an unusual question in discovery,
19 asking to explore communications between a defendant
20 or defendants and other potential witnesses about the
21 lawsuit.

22 THE REFEREE: The objection is overruled
23 to this particular question.

24 THE WITNESS: I object on behalf of my
25 former clients, Vicki and Richard Aznaran, and would

4 1 note for the record, as well Your Honor, that at the
2 time this lawsuit was filed for a period of time
3 thereafter I was their counsel in the case I
4 identified in the Federal District Court in front of
5 Judge Edelman.

6 Insofar as it attempts to elicit
7 information related to their case, or potentially
8 related to their case, communications between them and
9 their counsel, I would interpose the attorney-client
10 work product privileges.

11 THE REFEREE: That may apply.

12 At the moment I have no way of knowing
13 whether it applies, anything applies, because first
14 the fact that you may have had a conversation or
15 conversations is a yes or no answer.

16 And then where we go from there we'll
17 have to all find out together.

18 THE WITNESS: I would also like to
19 interject for the record in an attempt to elicit
20 communications involving my communications post RO and
21 post preliminary injunction I will interpose my rights
22 under the 1st, 4th, 5th and 14th Amendments to the
23 United States Constitution.

24 And also my rights of privacy under
25 Article 1, Section 1 of the California Constitution.

4 1 MR. PARKER: I think the Judge is saying
2 it's a little premature. If the answer is no, it's
3 all moot.

4 THE WITNESS: The questions regarding
5 this lawsuit?

6 THE REFEREE: Isn't that the question?

7 MR. DRESCHER: It certainly is.

8 THE WITNESS: I also interpose the work
9 product privilege with respect to the defense of this
10 case.

11 A The answer is yes.

12 Q BY MR. DRESCHER: The same question as to
13 Richard Aznaran?

14 A Yes.

15 Q The same question as to Jerry Armstrong?

16 A Yes.

17 Q The same question as to Bent Corydon?

18 A Yes.

19 MR. PARKER: Objection, it's irrelevant.
20 He's not being accused of any wrongful behavior with
21 respect to Mr. Corydon.

22 MR. DRESCHER: Mr. Corydon is going to be
23 deposed by you.

24 MR. PARKER: What has that got to do with
25 anything? He has relevant testimony to give in this

4 1 case.

2 This question is to find out who we
3 talked to as potential witnesses. When I served form
4 interrogatories 12.1 and 12.2 and 12.3 they asserted
5 the work product privilege. Now they want us to do
6 the same.

7 MR. DRESCHER: The question was as to
8 Bent Corydon.

9 THE REFEREE: Overruled. You may answer.

10 A Yes.

11 Q BY MR. DRESCHER: Ford Greene, same
12 question?

13 A I don't recall.

14 Q John Clifford Elstead, same question?

15 A Yes.

16 Q C. Tony Wright, same question?

17 A I certainly don't think so.

18 Q Karen McRae, same question?

19 A I don't recall.

20 Q Toby Plevin?

21 A Yes.

22 Q Sandra Baker?

23 A Who?

24 Q Sandra Baker, same question?

25 A I have no current recollection of a

4 1 Sandra Baker.

2 Q Let me move on.

3 Gary Ernst, same question?

4 A Can you tell me who Gary Ernst is?

5 Q Yes, Gary Ernst is a representative of
6 the Internal Revenue Service Exempt Organizations
7 Division.

8 MR. PARKER: Your Honor, I object to the
9 question. The same grounds as before.

10 He asked about Mr. Walsh before we broke
11 for lunch. My client's communications with government
12 officials in the course of their duties have nothing
13 to do with this lawsuit.

14 MR. DRESCHER: That question I asked
15 before lunch was have you had various discussions with
16 Mr. Walsh over the years, and that was to which an
17 objection was sustained.

18 I'm now asking specifically as to this
19 lawsuit and the extent of Mr. Yanny's desire to injure
20 his clients in any way he possibly can in violation of
21 his fiduciary obligations.

22 MR. PARKER: That's not what this
23 complaint says. I'm defending a complaint that has
24 two causes of action that deals with the Aznarans and
25 Armstrong.

5 1 THE REFEREE: Objection sustained.

2 MR. DRESCHER: Let me address this. Let
3 me make a record.

4 THE REFEREE: Make your record with
5 respect to government agents.

6 MR. DRESCHER: I' was going to add a
7 third. That's Allen Lipkin.

8 Mr. Lipkin's a Criminal Investigation
9 Division employee of the IRS.

10 Ms. Baker is a Collection Agent employed
11 by the IRS.

12 Mr. Ernst is involved as an agent for the
13 Internal Revenue Service in the Exempt Organizations
14 branch.

15 Mr. Yanny received subpoenas from the IRS
16 in September or October, excuse me, October and
17 November of 1991. Those subpoenas were issued, two of
18 them by Mr. Ernst, one of this them by Ms. Baker --
19 the name of which he's already said he doesn't recall.
20 All three of those subpoenas were issued by those IRS
21 employees with respect to Mr. Yanny's former
22 representation of these churches.

23 With respect to this lawsuit, and indeed,
24 without going into detail Your Honor, growing out of
25 abortive settlement negotiations that took place in

5 1 this very case, these were simply subpoenas that were
6 issued to attempt -- we believe, and we would like to
7 prove through this inquiry -- that the IRS was trying
8 to legitimize and validate information it already had
9 received in violation of Mr. Yanny's fiduciary
obligations with respect to who knows what. But you
certainly heard this man spew out everything he could
think of, whether true or not, all day. Those
subpoenas were quashed, all three them.

10 There is an involvement of those IRS
11 agents in that case. And that's why this question of
12 whether Mr. Yanny was involved in any communications
13 with those individuals concerning this lawsuit goes
14 straight to the heart of his ongoing breaches.

15 We also can show that through testimony
16 that was only elicited in the past week that Ms. Baker
17 indeed has a file concerning communications with Mr.
18 Yanny. If you recall, that's the Ms. Baker whose name
19 he said he didn't remember.

20 We also have, through FOIA requests in
21 another case, obtained information that Mr. Yanny had
22 communications with Mr. Lipkin of the Criminal
23 Investigations Division of the IRS, and it coincides
24 with the Aznarans coming to California to stay with
25 Mr. Yanny.

5 1 Now, Your Honor, I just think that when
6 2 you've got a case in which you're seeking to vindicate
7 3 a right as fundamental as a client's right to be
8 4 secure from his former counsel's temper tantrums and
9 5 his anger and his anxiety and his hatred and his
10 6 distrust, for whatever reason -- and there is such a
11 7 thing as an ongoing fiduciary duty -- that when you
12 8 take these incidents -- which are not unrelated as Mr.
13 9 Yanny would like you to believe, but all tie into this
14 10 suit, spinning from Ms. Baker and Mr. Ernst since time
15 11 coincidences with settlement matters that address
16 12 vaguely those subjects -- it is imperative we be able
17 13 to explore why this man sits here and spews such
18 14 anger, yet he goes out of his way to be
19 15 non-responsive, yet views discovery as an exercise
20 16 where he can spew out anything he wants, regardless of
21 17 what the question was, and we're foreclosed from
22 18 determining whether the fiduciary breach, the pattern
23 19 and practice of which I think is becoming clear -- and
24 20 it certainly is clear to us -- why we can't explore
25 21 into that.

22 The punitive damages claims in here talk
23 about "oppression." They talk about "malice" and they
24 also specifically allege, with respect to this case,
25 Mr. Yanny has undertaken for the express purpose of

5 1 injuring the plaintiffs, his former clients, the
2 fiduciary breaches alleged. These are all tied
3 together.

4 I think it would be unjust, at least at
5 this stage, for us to be precluded from a discovery
6 proceeding -- this is not a trial, not admissible
7 evidence -- but an effort to seek and learn of
8 admissible evidence which is the definition of the
9 referee on those issues. I have already identified
10 Mr. Yanny's contacts with these people.

11 That's it in a nutshell.

12 MS. BARTILSON: The question went to
13 communication about this lawsuit.

14 It's narrow. It's limited.

15 MR. PARKER: The Church's problems with
16 the government, Your Honor, are well known, they go
17 back to the seventies when Ms. Bartilson's boss was an
18 unindicted co-conspirator.

19 They antedate my client being hired as
20 well as his being fired. These people sued my client
21 four years ago and they waived whatever privileges
22 they had when they sued him.

23 Now as we are 47 days away from trial
24 they're going on a fishing expedition. And if this is
25 allowed then of course they'll come in, they're not

1 ready for trial, they'll want to delay the case and
2 get an extension.

3 MR. DRESCHER: Mr. Parker just told you
4 that four years ago these clients sued Mr. Yanny
5 addressing the full scope of his representation. That
6 was a two-part preliminary injunction. It had to deal
7 with the Aznarans, and Bent Corydon, who's not part of
8 this complaint.

If he can translate that specific allegation that has led to a preliminary injunction in 1988 against Mr. Yanny representing the Aznarans or Corydon into the full scope of the representation, then he's at a real loss to argue that a preliminary injunction here which addresses the representation of Mr. Yanny of the Aznarans and Armstrong is so limited that it prevents us inquiring into conversations since this lawsuit was brought involving this lawsuit that Mr. Yanny has had with people who are percipient witnesses.

Particularly when we have the documentation concerning the subpoenas, they were quashed. The circumstance in which they arose, the timing in November 1991, the fact that Mr. Yanny has indeed been in communication with an IRS agent who admits to having a file about his communication but

6 1 whose name a minute ago he drew amnesia on.

2 When put in the context of this
3 complaint, when put in the context of this case we're
4 entitled to explore those things to see just how far
5 Mr. Yanny has gone. If his explosions and if his
6 detours and over-inclusive non-responsive answers in
7 this case -- you have heard that this morning -- then
8 we're certainly entitled to find out who he's mouthing
9 off to.

10 MR. PARKER: Just to clarify what I said
11 before, my client cross-complained for fees in Yanny
12 I. He won. They lost on his trial complaint.

13 In defending his cross-complaints they
14 set up defenses that he was intent, therefore the full
15 scope of his services were litigated. They lost.
16 Along the way they waived the privilege.

17 That really goes to the merits of the
18 claim they haven't asserted. We're entitled to a
19 notice pleading. An allegation as serious as this, I
20 can read this complaint and come here today thinking
21 that all I have to deal with is Armstrong and the
22 Aznarans and not government agents.

23 THE REFEREE: Is there anything else you
24 want to say Mr. Drescher?

25 MR. DRESCHER: No. I just want to

6 1 emphasize what I said before.

2 This is discovery. It's not the trial.

3 What it is is our one and only -- according to Judge
4 Cardenas -- opportunity to explore just how badly
5 these clients have been injured.

6 THE REFEREE: I understand that that's
7 your point.

8 As to the government agents, my ruling
9 stands.

10 MR. DRESCHER: That is there is to be no
11 inquiry into the substance of his communications, fact
12 of, or substance?

13 THE REFEREE: Fact of or substance of the
14 communications regarding this action, which I think
15 was the scope of the question.

16 MR. DRESCHER: Substance would have been
17 the next ground.

18 MS. BARTILSON: Can we have the basis for
19 your ruling Your Honor?

20 THE REFEREE: I really can't see that
21 it's appropriate in the circumstances of this case,
22 and I don't believe that it's likely to elicit useful
23 evidence.

24 MR. DRESCHER: We haven't spent any time
25 in this case, Your Honor, discussing various

6 1 procedural matters that might arise. I see this as a
7 2 preface to the observation that this is an issue, as
8 3 Your Honor might suspect, that we would like to
9 4 explore.

5 I believe, and I'm really unsure what the
6 rule is, I think that I guess the appropriate way to
7 address the issue of our, what we require in this area
8 would be to make an appropriate motion to Judge
9 Cardenas. Is that your understanding? To challenge
10 the ruling that has been made with respect to
11 government agents. I don't believe that Judge
12 Cardenas addressed that specifically. I'm looking for
13 guidance.

14 THE REFEREE: I'll certainly try to give
15 it.

16 Normally a ruling in discovery you would
17 seek a writ to something of that nature. Since we've
18 got a Referee involved here I think the appropriate
19 way would be to approach Judge Cardenas and see what
20 his thoughts were.

21 Your problem is various -- your problems
22 are various. You've got the time problem. And I
23 would expect that you're going to explore whatever
24 else you're going to explore with Mr. Yanny other than
25 the government agent questions. Clearly if a ruling

7 1 is made by whomever makes the ruling, and it's
2 appropriate to ask the questions, then I'm sure that
3 Judge Cardenas' limitation of the time that Mr. Yanny
4 is to be available for the taking of a deposition
5 would be appropriately extended.

6 THE WITNESS: One thing that predates my
7 counsel.

8 There has been a fairly well publicized
9 case instituted by Mr. Drescher on behalf of these
10 very same clients against a multitude of the IRS
11 agents in the Federal District Court. Mr. Drescher
12 was quoted in the L.A. Times with respect to the basis
13 for that lawsuit. I'll simply note that.

14 THE REFEREE: Whatever. For whatever
15 effect?

16 MR. DRESCHER: I raise the question, Your
17 Honor, because I think that at this junction -- and
18 there obviously are other areas I'm not going to waste
19 the rest of the day -- I was trying to make sure, and
20 I glean from what Your Honor says, I want to make some
21 sort of offer of proof or something. I guess Judge
22 Cardenas would be the appropriate place?

23 THE REFEREE: I would think you could
24 start there. The use of the Referee is a help, but
25 it's a little bit of never never land.

7 1 The Referee is empowered by the Judge to
2 perform certain functions. And in the sense you take
3 the place of the Judge -- and I'm sure it was his
4 intention that I take his place for the purpose of
5 ruling on objections and whatnot -- I'm sure he hopes
6 not to see, in other words this he has shifted to
7 somebody else. And it may be that it's appropriate to
8 go directly to the court at the next level, which
9 would be the court of appeal level, to look for
10 relief. It may well be that Judge Cardenas will see
11 it the same way.

12 I would just informally ask him.

13 MR. DRESCHER: I'm sort of at a loss
14 here. I viewed this deposition Referee or otherwise
15 as being sort of a deposition that the tangible
16 strings that run from a relevant admissibility core
17 are explored and exploited.

18 I don't come here to make an offer of
19 proof on the FOIA documents or the Aznarans and the
20 IRS or Armstrong's and IRS. It's video taped
21 admissions by Armstrong that he's an operative for the
22 IRS. I didn't come prepared for that.

23 I guess what I really want to do is bring
24 it and seek some kind of guidance from Judge Cardenas
25 to raise those sorts of points.

1 THE REFEREE: If he lays it back on me
2 you know where you can take it from there.

3 Yes, we do have a TV. If some later
4 stage in this discovery you need to do something --

5 MR. DRESCHER: I don't want to waste any
6 more time today, because you made your ruling. I
7 would like to reassess where I am. Ask for five
8 minutes to do so.

9 THE REFEREE: Five minutes.

10 MR. DRESCHER: I will ask for 10.

11

12 (Recess taken 2:27 p.m. to 2:46
13 p.m.)

14

15 MR. DRESCHER: Sorry I took more than 10.

THE REFEREE: Back on the record.

17 Q BY MR. DRESCHER: Mr. Yanny, when did you
18 first learn that the Aznarans were looking to replace
19 Ford Greene as their attorney in the Aznar case?

20 A That question is pregnantly compound.
21 Insofar as it attempts to potentially
22 invade its argumentative

23 MR. PARKER: I understand you're asking
24 for a date.

25 Q. BY MR. PRESCHER: Yeah, when did you

7 1 first learn that the Aznarans were attempting to
 2 replace Ford Greene as their attorney in the Aznaran
 3 case?

4

7

11 MR. DRESCHER: Nonsense.

12 A It is pregnant with a communication that
13 obviously would have had to have come from the client.

14 And without acknowledging the truth or
15 facility of the presupposition on the part of my
16 esteemed opposition, I'm not going to answer that
17 question based on attorney-client and/or work product
18 privileges.

19 THE REFEREE: I'm going to order you to
20 answer.

21 THE WITNESS: I'm going to have to refuse
22 then Your Honor.

23 THE REFEREE: I would suggest if you
24 refuse enough then somebody is going to be making a
25 motion to strike your answer.

7 THE WITNESS: What I would suggest is to
8 ask him to rephrase the question.

3 THE REFEREE: I don't find any fault with
4 the way it's phrased, and you're stuck with me on this
5 kind of a situation.

6 If I think -- I have no intention to, of
7 requiring you to breach any obligation that I can see
8 exists.

9 And I can be wrong. I can accept that.

10 But on this kind of communication I just can't see it.

11 THE WITNESS: If I might revisit, as Mr.
12 Drescher has done a number of times on the record, the
13 question as posed is when did you first learn that the
14 Aznarans were seeking to replace Ford Greene as their
15 counsel?

16 Obviously if that kind of communication
17 existed it could have only come from my former
18 clients, Vicki and Richard Aznarans. To answer that
19 question -- which is argumentative, therefore, in
20 form -- would be to disclose the substance of
21 conversations from my former client, Vicki and Richard
22 Aznaran to me, and therefore violative of the
23 attorney-client privilege.

24 THE REFEREE: You heard the order. You
25 do as you choose.

1 THE WITNESS: I don't recall that I ever
2 found out that Vicki and Richard Aznaran were seeking
3 to relieve Ford Greene as counsel.

4 I found out that they had relieved Ford
5 Greene as counsel after a breakfast meeting between
6 yourself, Mr. Quinn and Mr. Van Sickle, in which you
7 made a joint offer of settlement to Barry Van Sickle
8 knowing that Ford Greene was then counsel of record
9 for the Aznarans in the Aznaran case.

10 You linked the settlement of the Aznaran
11 and Corydon cases with a lump sum of money that Van
12 Sickle was to split up between the two clients, one of
13 which was not his client but somebody else's client,
14 after you sought to have him disqualified from the
15 Aznaran case -- and did have him disqualified from the
16 Aznaran case -- and on the express proposition that
17 you would not settle with Ford Greene, you would not
18 deal with Ford Greene, and thereafter Vicki and
19 Richard, after receiving information from your agent,
20 Van Sickle -- who was no longer the Aznaran's
21 counsel -- dismissed Ford Greene as their counsel.
22 Once they were in persona propria, you then began to
23 file summary judgement motions.

24 I hope that answers your question.

25 Q BY MR. DRESCHER: No, it doesn't.

8 1 I want to know when you first learned
9 2 that the Aznarans were looking to replace Ford Greene?
10 3 A I already answered the question.
11 4 Q When did you first learn that the
12 5 Aznarans had substituted themselves for Ford Greene?
13 6 A I can't recollect an exact date.
14 7 Q Who was present at this breakfast meeting
15 8 you're talking about?
16 9 A You, Van Sickle and Quinn.
17 10 Q Who else?
18 11 A I think that's it. Maybe the waiter.
19 12 Q Were you there?
20 13 A No.
21 14 Q Were either of the Aznarans there?
22 15 A No, not that I know of. But you'll have
23 16 to ask them.
24 17 Q You weren't?
25 18 A I wasn't.
26 19 Q Who told you what happened at that
27 20 meeting?
28 21 A Van Sickle, your agent.
29 22 Q Anyone else?
30 23 A Insofar as anyone else would have
31 24 informed me, I will interpose the attorney-client
32 25 privilege.

8 1 THE REFEREE: Sustained this time.

2 THE WITNESS: Thank you Your Honor.

3 Q BY MR. DRESCHER: What was the date of
4 the breakfast meeting, do you know?

5 A No. There were a series of them.

6 Q The first one?

7 A I believe they began sometime in early
8 May, and so continued.

9 Q You identified in your verified answer,
10 "June 5th, 1991."

11 Is your recollection different now?

12 A I don't know what I identified in my
13 verified answer or I didn't identify in my verified
14 answer.

15 I'm giving you my present recollection of
16 what I know. Keep talking. I think my recollection
17 may be refreshed.

18 Q Does June 5th ring a bell?

19 A Not particularly right now.

20 Q Then I'm going to ask you a question that
21 relates to June 5th.

22 Prior to June 5th, 1991, did you ever
23 discuss with the Aznarans their replacing Ford Greene
24 as their attorney?

25 MR. PARKER: Objection, attorney-client

8 1 privilege.

2 MR. DRESCHER: I'm talking about the
3 period prior to June of 1991. Mr. Yanny doesn't enter
4 an appearance in the Aznaran case until June 28, 1991.

5 MR. PARKER: Are you making that
6 representation?

7 I hear you giving speeches and
8 testifying. You're not even under oath.

9 You'll get a chance to give your
10 deposition next week. Why don't you ask the question
11 and we will go on?

12 MR. DRESCHER: I did.

13 MR. PARKER: I object on the
14 attorney-client privilege grounds.

15 MR. DRESCHER: And my response is since
16 Mr. Yanny says in paragraph 23 of his verified answer
17 that he represented Vicki -- answering paragraph 23 of
18 plaintiffs' complaint:

19 "Defendants admit that defendants" --
20 that's Yanny -- "acted reasonably and ethically in
21 representing Vicki and Richard Aznaran over a short
22 period of time in the federal action, beginning on
23 June 28, 1991."

24 My question was prior to June 5, 1991,
25 did Mr. Yanny ever discuss with the Aznarans replacing

9 1 Ford Greene as their attorney?

2 A For the record, insofar as your question
3 attempts to get in what I discussed with Vicki and
4 Richard Aznaran I will, on their behalf, interpose the
5 attorney-client privilege. And the appearance began
6 in the federal action on June 28, 1991.

7 But it is obvious that prior to that date
8 there must have been discussions between I and the
9 Aznarans regarding my representation of them in that
10 case. I did not substitute in for Ford Greene. I
11 substituted in for Vicki and Richard Aznaran who were
12 in persona propria in slight of hand by your
13 fatness.

14 MR. DRESCHER: Are you referring to me?

15 THE WITNESS: Yes.

THE REFEREE: We don't really need this.

17 MR. PARKER: Let me talk with my client.

18 MR. DRESCHER: Keep the time.

19 MR. PARKER: This is my third time out
20 less than any one of his.

21

22 (Whereupon, the witness

23 and counsel left the deposition
24 room 2:55 p.m. to 2:56 p.m.)

25 //

9 1 THE REFEREE: Let the record show we had
2 a 30 second recess.

3 THE WITNESS: Thank you Your Honor.

4 MR. PARKER: Sorry to take so long Your
5 Honor.

6 THE WITNESS: He's a fast talker.

7 THE REFEREE: I don't really remember
8 exactly where we were when we took the recess.

9 THE WITNESS: There was an objection
10 pending.

11 THE REFEREE: There was an objection?

12 THE WITNESS: Based on attorney-client
13 privilege.

14 MR. PARKER: The question is whether or
15 not he had pre June 5 discussions about disposing of
16 Mr. Greene's services, and I objected on the
17 attorney-client privilege.

18 I have been reminded of that wonderful
19 scene, Your Honor, in the movie "Presumed Innocent"
20 where the psychiatrist took the stand and asked them
21 if Rusty Sabich admitted he killed the young lady.
22 The answer was no. His lawyer stood silent because he
23 knew it would not be a waiver of privilege.

24 THE REFEREE: Alright. The objection's
25 sustained.

9 1 THE WITNESS: Thank you Your Honor.

10 2

11 3 (Discussion held off the record.)

12 4

13 5 Q BY MR. DRESCHER: When did Mr. Van Sickel
14 6 tell you about the first of these breakfast meetings
15 7 to which you made reference?

16 8 A I don't know what you're talking about.

17 9 Q Did Mr. Van Sickle talk to you about what
18 10 had transpired at the breakfast meeting to which you
19 11 referred?

20 12 MR. PARKER: To the extent the question
21 13 calls for conversations during the time they were
22 14 lawyer and client, I object on the attorney-client
23 15 privilege grounds since your question is not limited.

24 16 THE REFEREE: Well, I'm a little confused
25 17 now.

26 18 Are you saying there was an
27 19 attorney-client relationship between Mr. Van Sickle
28 20 and Mr. Yanny?

29 21 MR. PARKER: He was my predecessor.

30 22 THE REFEREE: With that limitation, you
31 23 can answer the question.

32 24 MR. DRESCHER: Before he does Your Honor,
33 25 he was not Mr. Yanny's attorney at the time.

9 1 THE WITNESS: Yeah, he was. And Yanny
2 won an appeal.

3 Q BY MR. DRESCHER: This is a question
4 involving the Corydon case and the Aznaran case.
5 Mr. Yanny was not a party in either and was not
6 represented in either. Mr. Van Sickle was not his
7 counsel in either.

8 Mr. Van Sickle had a conversation with
9 Mr. Yanny. The question is when did he have it? He
10 testified to the fact he had it. If he had it in June
11 a day or two or week or more after June 5th but prior
12 to this lawsuit being brought, then it doesn't apply.

13 THE REFEREE: Did you have a
14 conversation?

15 I thought he already testified there was
16 a conversation? (Indicating the witness)

17 THE WITNESS: Yes.

18 Q BY MR. DRESCHER: The question was when?

19 THE REFEREE: When did you have the
20 conversation?

21 A It would have been before I made my
22 appearance in the Aznaran case.

23 Q BY MR. DRESCHER: Sometime after the
24 breakfast meeting but before you made the appearance?

25 A There were a series of conversations I

9 had with Van Sickle over the course of those breakfast
10 club meetings.

11 Q So it was more than one conversation with
12 Mr. Van Sickle?

13 How many meetings?

14 A I don't know how many meetings there
15 were. But they were occurring on a fairly regular
16 basis.

17 Q What did Mr. Van Sickle tell you about
18 the first of those meetings?

19 MR. PARKER: Object. Mr. Van Sickle was
20 this man's lawyer for the better part of two or three
21 years, including the time frame that he's talking
22 about.

23 MR. DRESCHER: I think maybe I better
24 focus this for Your Honor's interpretation.

25 What Mr. Yanny is alleging is his
26 rendition of what Mr. Van Sickle told him about in
27 breakfast meetings among Mr. Van Sickle, Mr. Quinn,
28 myself and no one else, concerning the Aznaran case,
29 and concerning the Corydon case.

30 They had nothing to do with Yanny 1, they
31 had nothing to do with the case we're here now on,
32 which didn't get filed until over a month later.

33 What I'm asking is what Mr. Van Sickle,

9 1 who at the time was Mr. Corydon's lawyer, told Mr.
10 2 Yanny in the period between the time the first of
11 3 those meetings took place in which the Aznaran and
12 4 Corydon cases were discussed, and Mr. Yanny's
13 5 appearance June 28, 1991 on behalf of the Aznarans in
14 6 the Aznaran case. I fail to see how the fact Mr. Van
15 7 Sickle representing Mr. Yanny in Yanny 1 has anything
16 8 to do with that.

9 MS. BARTILSON: Mr. Yanny's lawyers have
10 10 consistently maintained that this breakfast meeting is
11 11 highly relevant to their defense.

12 MR. PARKER: My client wasn't present at
13 13 the meeting, so he isn't going to be able to give any
14 14 first hand account. All he can say is a hearsay
15 15 account that comes from his lawyer.

16 MS. BARTILSON: Didn't I see just hear
17 17 that argument from Mr. Barker concerning Bent Corydon?

18 MR. PARKER: As to whether or not there
19 19 was a connection to Yanny 1, I don't think there needs
20 20 to be one.

21 The fact that the members of the
22 22 breakfast club submitted declarations in this court
23 23 action that we're involved in and in it they made
24 24 reference to the Yanny 1 case being an item of
25 25 conversation with Mr. Van Sickle's declaration on that

1 day.

2 THE WITNESS: Mr. Van Sickle's
3 declaration made reference to, during the course of
4 those breakfast club meetings, a number of things were
5 discussed, including settlement of Aznaran, Corydon
6 and/or Yanny litigation.

7 MR. PARKER: It's privileged.

8 Lawyers and clients are privileged to
9 talk about things that might be irrelevant.

10 MR. DRESCHER: But the privilege only
11 extends to the instances on which the client seeks a
12 lawyer's guidance.

13 THE REFEREE: Thank you.

14 The objection's overruled. You can
15 answer the question.

16 A To the best of my recollection -- and
17 this will probably crystalize as it comes out, I can't
18 recall specific dates at present -- Van Sickle had
19 stated -- we were in regular, fairly regular contact.
20 He was of counsel to my firm and he was working on a
21 number of other cases with me at the time -- Van
22 Sickle had stated that there were settlement talks
23 going on. And that you wanted to silence Corydon.

24 You wanted to remove from his possession
25 documents relating to the IRS raid and some of the

10 1 things that had been discovered during the course of
11 2 the IRS raid from his possession, and you wanted to
12 3 make sure that you got all copies.

13 4 That you also wanted to remove documents
14 5 from Mr. Corydon's possession as part of the
15 6 settlement that related to Hubbard's fraudulently
16 7 represented past and his military history, and the
17 8 fact that he had been in a mental hospital, a place
18 9 called Oak Knoll, those types of things that Corydon
19 10 had in his possession, that Jerry Armstrong had taken
20 11 and Corydon had obtained copies of.

21 12 That you wanted to remove from his
22 13 possession various other types of documents that may
23 14 have been necessary or helpful for other people to
24 15 have in the future in case litigation between you and
25 16 they broke out.

26 17 But you also wanted to have removed
27 18 Corydon's right to associate or to freely and
28 19 voluntarily assist other people in litigation in the
29 20 future in which you -- when I say "you," I mean the
30 21 organization was a party. And that as part of the
31 22 settlement you wanted to impair his ability to take
32 23 cases against you in the future. And there had been
33 24 passing jokes if he didn't take cases perhaps money
34 25 could be arranged to be available to him at some other

10 1 location other than in the United States.

2 Van Sickle also stated that the initial
3 settlement offer that you had proposed, that you came
4 to a meeting and that at the time the Aznarans were
5 then represented by Ford Greene. Van Sickle had
6 already been disqualified. And that he was not
7 permitted at that time, by his partners, from coming
8 into the Aznaran case. Van Sickle had already been
9 disqualified in the Aznaran case. He not taken a writ
10 on the matter but his partners would not let him
11 proceed any further.

12 You guys had made a settlement offer that
13 you threw out on the table, two million dollars, and
14 that you told Van Sickle to divide it amongst his
15 clients, the Aznarans and the Corydon's, in any way
16 that he felt appropriate. But that he played a rather
17 high stakes game of risky poker. You were talking
18 about motion in limine in the Corydon case and there
19 was some passing joke, I don't know how many motions
20 there were, how many there were.

21 MR. DRESCHER: You're answering --

22 A But you would deduct \$100,000 off the two
23 million dollar pot for each of the motions in liminie
24 that would be granted.

25 Van Sickle said that Corydon would not

11 1 settle for less than a million dollars in Corydon's
12 2 pocket and that as a result the money that would be
13 3 left over -- as you guys had arrived at some figure
14 4 whereby you discussed the merits of each of the
15 5 motions in liminie -- was somewhere in the
16 6 neighborhood of 1.5 I believe. Assuming that you
17 7 would win about five. And that that would not leave
18 8 enough for the Aznarans to settle their case.

9 Van Sickle further stated that you had
10 indicated that you would not deal with Ford Greene in
11 settlement, that he had seriously offended high
12 ranking members of the organization, including David
13 Miscavige and Earle Cooley, by his wearing of a Cult
14 Busters t-shirt to a deposition in Dallas, Texas, and
15 the fact that he wore sandals and no socks really
16 bugged Earle bad. And that he was a slob, he hadn't
17 done his job, he was incapable of doing any of the
18 things that a lawyer does.

19 This is the substance by the way of the
20 conversations that took place over a period of time
21 between Van Sickle and I. I became probably most
22 aware of them after the conversations had taken place
23 and the Aznarans had dismissed Ford. When I say
24 "Ford" I mean Ford Greene.

25 Van Sickle then stated that you guys --

11 1 you guys being the organization --

2 Q BY MR. DRESCHER: Hang on a second.

3 You said you became aware of these
4 conversations mostly after the Aznarans had dismissed
5 Greene, is that what you just said?

6 A The conversations regarding the fact that
7 you wouldn't deal with Greene, most of that becomes
8 painfully apparent to me after Greene was already out
9 of the case. I can't remember when Van Sickle first
10 specifically started telling me about these meetings,
11 but he did outline when they began and that they were
12 ongoing.

13 Van Sickle then stated, at some point in
14 time it came to my attention through Van Sickle that
15 the Aznarans had had communications with him. And he
16 recounted to me on the phone, in a conference call
17 with Vicki and Richard -- I made sure we were all
18 patched together because I didn't want him laying a
19 bunch of BS in one place -- he admitted the
20 substance of conversations.

21 You at one point in time came in and you
22 pulled out a proposed draft of the Corydon settlement
23 agreement and you handed it to him in an envelope.
24 You said I know this is not 1986, but my clients would
25 like you and Plevin out of the Scientology litigation

11 1 business. I realize that it's unethical for me to
12 even suggest such a thing. And you handed him the
13 settlement agreement. I believe he told me he
14 understood it probably violated 1-500, some kind of
15 code of responsibility.

6 At some point in time Van Sickle called
7 me and he told me the Aznarans had relieved Ford
8 Greene, that he had a conversation with them after
9 having had a conversation with you, after having a
10 series of conversations with you in which he conveyed
11 the sum and substance of what I just told you. That
12 you guys wanted to settle and wanted to proceed to
13 settlement negotiations. You wanted out of the
14 litigation business, but you would not deal with Ford
15 Greene. You would not deal with Ford Greene.

16 And that he indicated he had told the
17 Aznarans that he could not come in because he had
18 previously been disqualified. But that after having
19 talked to you all -- "you all" being you and Jack,
20 Jack Quinn -- he had recommended, at your suggestion,
21 that they perhaps come in in persona propria.

22 They did that. They relieved Ford
23 Greene. They came in in persona propria. At the very
24 next meeting of the substitution of the Aznarans in
25 persona propria had taken place that you then told him

11 1 your client no longer had interest in settling the
12 2 Aznaran case because they were no longer with counsel.
13 3 And within a matter of days you had filed motions for
14 4 summary judgement against these people who were now
15 5 effectively without counsel.

12 6 I asked Van Sickle if he was going to
13 7 make a motion for reconsideration or appearance, he
14 8 said that he couldn't. He had been disqualified. You
15 9 guys wouldn't waive even though you baited him into
16 10 conveying the information to the Aznarans that you
17 11 would deal in good faith.

12 12 I then asked Toby if she would come in
13 13 because I'll be a son of a bitch if I was going to
14 14 watch these people get baited by that kind of nonsense
15 15 into being without counsel, and have you file motions
16 16 for summary judgement on a 21 day schedule wherein
17 17 they had to oppose motions seven days, offer of reply
18 18 papers within another seven days and a hearing within
19 19 21 days of filing.

20 20 MR. PARKER: The question is
21 21 conversations with Van Sickle.

22 22 A Van Sickle said he wouldn't come in and
23 23 he didn't know if Toby would. That they were afraid
24 24 of coming in or even testing the water because you
25 25 guys had made saber rattling that if they attempted to

12 1 make an appearance in that case to help the Aznarans
13 2 out in opposition to the summary judgement that it
14 3 would quote "queer the Corydon settlement agreement."
15 4 "They" being Van Sickle and Toby Plevin.

16 5 Quinn later told me that the figure was
17 6 1.3 million dollars.

18 7 Q BY MR. DRESCHER: I wanted to know what
19 8 Barry told you?

20 9 A Okay.

21 10 Barry then told me -- he had also told me
22 11 of the fact that he had made an appearance in the
23 12 Corydon case and that you guys had attempted to
24 13 disqualify him. I believe it was the Judge, the Irish
25 14 fella, O'Brian.

26 15 Q Barry told you that?

27 16 A That you guys had tried to disqualify him
28 17 in the Corydon case.

29 18 Q Did Barry tell you that?

30 19 A Yes.

31 20 And that you --

32 21 Q This was after --

33 22 A Let me finish.

34 23 Q Is this still the June 5th, after June
35 24 5th?

36 25 A Obviously it's after June 5th.

1 Q Why is that obvious?

2 THE REFEREE: Go ahead with your answer.

3 MR. DRESCHER: Just --

4 A I'm going to go ahead with my answer.

5 Van Sickle stated that you had attempted
6 to disqualify him and that you had used all of the
7 same arguments in front of this other Judge in the
8 state court that you used in front of Judge Edelman in
9 the federal case regarding the Aznarans. But that he
10 had pled in that case, actually Toby had pled -- Toby
11 Pleven for the record -- that there had been a change
12 in circumstances, that you guys had waived the
13 privilege with respect to me, that Judge Cardenas had
14 already found there might not be a conflict of
15 interest in my representation of the Aznarans based on
16 the record that had been before him and had been fully
17 litigated in Yanny 1.

18 That other items had happened. Even
19 though he was of counsel to my firm now he was
20 technically probably bound by the same matters, the
21 same privileges that I was bound by, or duties that I
22 was bound by.

23 There had been a change in circumstances.
24 There was probably a non-relationship that he arranged
25 these very same type of secrecy agreements as being

12 grounds to bar you from seeking the equitable remedy
1 of disqualification, which it is, that you had insofar
2 as these people's ability to maintain representation.
3
4 And that he had successfully hurled that on the court.
5
6 At least the state court system. And I believe that
7 the same matter could be argued to Judge Edelman.

8 And he said that if I made an appearance
9 in the Aznaran case that politically he couldn't do it
10 now even though he promised people that he could.
11 Politically he couldn't do it, and that if I made an
12 appearance in the case he would defend me. He would
13 make the same arguments that had already been
14 successfully argued in the Corydon case -- which was
15 one of the matters of settlement actually of the
16 Corydon matter, which was the writ you had taken of
17 the denial of the disqualification. He also told me
18 about that.

19 What else do you want to know?

20 Q BY MR. DRESCHER: I want to know if he
21 told you anything else about the breakfast meetings?

22 A Yeah, he did.

23 At first you didn't want Toby being
24 present, you just wanted the three. Keep it kind of
25 an all male club, right? And since he was talking to
26 you about more than one case, that did not necessarily

12 1 involve Toby.

2 He indicated that -- this is prior to the
3 institution of this suit, correct?

4 Q Yeah, I'm asking --

5 You identified it, in fact, as the period
6 between the first breakfast meeting and you making an
7 appearance in the Aznaran case as the time period in
8 which Barry went over this?

9 A Yeah.

10 Which would have been on or about June
11 28th that I think I submitted the papers or signed the
12 papers.

13 Q It says the 28th where you signed them?

14 A I don't know when the Judge approved
15 them.

16 MR. DRESCHER: I knew when he threw them
17 out.

18 THE WITNESS: I figured you would know
19 that.

20 Q BY MR. DRESCHER: Of course the Judge
21 never signed them, did he?

22 A You tell me. You seem to be able to get
23 behind closed doors in the federal courthouse.

24 Q I read the order that said they were
25 approved by a clerk --

1 MR. PARKER: You're getting far-afield.

2 Q BY MR. DRESCHER: I want to know what
3 else Van Sickle told you between the first breakfast
4 meeting and June 28?

5 A That there had been a linkage of a number
6 of matters including potentially settlement of the
7 Yanny case, which would have been Yanny 1.

8 He told me that there had been discussion
9 between all of you that you guys didn't want -- you
10 guys being the organization didn't want Van Sickle and
11 Plevin taking cases in the future.

12 He also told me that Toby was a bit
13 worried about some covert threats for blackmail that
14 had been thrown her way by ya'all.

15 That's it right now. I can't recall
16 anything else. There was a lot discussed.

17 Q That's the best you can remember right
18 now?

19 That's the extent of your memory as to
20 those discussions between you and Barry Van Sickle
21 between the first breakfast meeting and the 28th of
22 June 1991?

23 A I might say a rather disgusting maneuver
24 on your part, yeah.

25 MR. DRESCHER: I can remember why it's

13 1 hard to understand. You have to make it up as you go.

2 THE REFEREE: Gentleman, let's go
3 forward.

4 Q BY MR. DRESCHER: Did the Aznarans ever
5 tell that you Ford Greene didn't return their phone
6 calls?

7 MR. PARKER: Objection, attorney-client
8 privilege.

9 A Attorney-client.

10 Q BY MR. DRESCHER: I want to know how that
11 relates?

12 Did the Aznarans ever tell that you Ford
13 Greene did not return their phone calls?

14 MR. PARKER: Communications with the
15 client are privileged.

16 MR. DRESCHER: It has nothing to do with
17 seeking advice.

18 THE REFEREE: It could or it couldn't.

19 A (No response)

20 Q BY MR. DRESCHER: Did the Aznarans ever
21 tell that you Ford Greene disappeared for several
22 months into a rehabilitation center without telling
23 them?

24 MR. PARKER: Same objection.

25 THE REFEREE: Same ruling.

1 A (No response)

2 Q BY MR. DRESCHER: Did the Aznarans ever
3 tell you that other clients of Ford Greene had warned
4 them that Greene had mishandled their cases?

5 MR. PARKER: Same objection.

6 THE REFEREE: Same ruling.

7 A (No response)

8 Q BY MR. DRESCHER: Did the the Aznarans
9 ever tell that you Greene had billed them for a
10 deposition that he never attended?

11 MR. PARKER: Same objection.

12 THE REFEREE: Same ruling.

13 A (No response)

14 Q BY MR. DRESCHER: Did the Aznarans ever
15 tell that you Greene was doing nothing to move the
16 case forward?

17 MR. PARKER: Same objection.

18 THE REFEREE: Same ruling.

19 A (No response)

20 MR. DRESCHER: One of the beauties of
21 letting Mr. Yanny do a narrative is he generally makes
22 fewer questions.

23 THE WITNESS: I don't usually miss many
24 points.

25 MR. DRESCHER: You don't have to miss

13 1 them when you're inventing them.

2 THE REFEREE: You're both officers of the
3 court, and I'd appreciate it if you would both try to
4 remember that.

5 MR. DRESCHER: I'll apologize to Your
6 Honor, but I hope Your Honor can understand hearing
7 that stuff pour out of me.

8 THE REFEREE: I'm saying -- I don't find
9 too many white hats right now.

10 THE WITNESS: I apologize to Your Honor.
11 I hope Your Honor can understand I have a tough time
12 reading that kind of stuff.

13 MR. DRESCHER: I'm disturbed by your last
14 comment, not "too many white hats." I'm sitting here
15 and listening to this spew.

16 THE REFEREE: I know.

17 You don't have to like it. If you view
18 it as garbage then you rise above it where you don't
19 respond to it.

20 MR. DRESCHER: Very well.

21 THE WITNESS: There's your white hat.

22 MR. DRESCHER: Thank you.

23 Q BY MR. DRESCHER: Mr. Yanny, when was
24 your first discussion with the Aznarans about the
25 possibility of representing them in their lawsuit

13 1 against the Church?

 2 MR. PARKER: That calls for a date, not
 3 substance.

 4 A I can't recall.

 5 Q BY MR. DRESCHER: It was before Mr. Van
 6 Sickle had any of those conversations with you
 7 concerning the breakfast meeting, wasn't it?

 8 A Again --

 9 I'm sure it would have been to that
 10 effect, yes. Hell, it goes clear back to '88. I'm
 11 sure there was some discussion, as you recall from all
 12 that previous testimony.

 13 Q When did you first discuss with the
 14 Aznarans the possibility of representing them
 15 beginning in June of 1991?

 16 A I don't recall.

 17 Q Was Mr. Van Sickle part of those
 18 discussions?

 19 A I don't believe so.

 20 Q When did you make the decision to
 21 represent the Aznarans and enter the case in June of
 22 1991?

 23 A When it became apparent that the only
 24 means by which a miscarriage of justice was going to
 25 be avoided or aborted was my appearance for the

1 purpose of getting an extension of time so that the
2 issue of their representation could be sorted out.

3 You want an exact date, I can't give you
4 one.

5 Q How many days before you made the entry
6 did you make that decision?

7 A I don't know.

8 Q Was it a week?

9 A I told you I don't know.

10 Q More than a week?

11 A I told you, I don't know.

12 THE REFEREE: It's not inappropriate to
13 ask follow up questions to see if that refreshes
14 recollection.

15 And your answer is you don't know. Let's
16 go forward.

17 THE WITNESS: All times.

18 Q BY MR. DRESCHER: Did you look to any
19 alternative other than Ms. Plevin in trying to find
20 someone to represent the Aznarans in June of 1991?

21 A Yes, but it was tough to find many who
22 hadn't been bought off already.

23 Q How many do you think the Church has
24 quote unquote "bought off?"

25 A The ones you haven't scared off you

14 1 bought off.

2 Q How many is that?

3 A There is quite a few.

4 Q How many?

5 A I don't know.

6 I know Contos & Bunch.

7 There was another local firm whose name

8 escapes me.

9 And I also knew that there was the
10 frequent habit of sending out -- at least while I was
11 a member of the staff representing the organization --
12 of sending out what were known as hiring missions, so
13 that whenever a spate of litigation was planned by the
14 organization you would be hard pressed to -- whoever
15 you were about to sue would be very hard pressed to
16 find counsel.

17 When I say a hiring mission I mean about
18 300 or 400 rice and bean fed members would then be
19 sent out to interview almost every firm in the city of
20 Los Angeles with respect to a particular suit, whether
21 by way of plaintiff or defendant, and that way if
22 somebody went to one of these firms it would be
23 difficult, if not impossible, to get them to
24 represent --

25 Buy off? I don't know, buy off is a

14 1 pretty tough term. It depends on if they were smart
1 2 enough to ask for fees for the consultation that you
1 3 obtain with the hiring mission or not.

4 Q Mr. Yanny, you say in paragraph 45 of
5 your answer, over on page 15, starting line five:

6 "Furthermore, plaintiff's have entered in
7 into numerous settlement agreements with many
8 attorneys (e.g. the Flynn settlement agreements), and
9 many of those settlement agreements have included
10 illegal provisions restricting those attorneys from
11 everything representing any clients with interests
12 adverse to the plaintiffs herein," so forth.

13 A Where are you referring to?

14 MR. DRESCHER: Lines five through eight
15 or nine on page 15, and the next page Mr. Yanny.

16 THE WITNESS: Paragraph 45?

17 MR. DRESCHER: Which continues onto page
18 15.

19 I'm quoting your Verified Answer.

20 THE WITNESS: Five through what?

21 MR. DRESCHER: Five through the first
22 word of 10. (Indicating)

23 THE WITNESS: Uh hum.

24

25 (Pause in proceedings.)

1 Q BY MR. DRESCHER: Have you read that?

2 A Yes.

3 Q How many?

4 A I couldn't even tell you.

5 As someone who had been consulted with
6 respect -- I couldn't tell you.

7 Q As one who had been consulted with
8 respect to what?

9 A To those settlement agreements.

10 I know that it was represented that all
11 of the lawyers who were entering into the Flynn
12 settlement agreements were required to agree not to
13 take cases at that time. And I had put that to the
14 president of Religious Technology Center who was then
15 my client --

16 MR. DRESCHER: I move to strike the
17 remainder of the answer.

18 A And she indicated --

19 THE REFEREE: I think he can complete
20 what he believes the answer to be and you can strike
21 it when I hear the whole thing.

22 MR. DRESCHER: I asked him how many.

23 A -- and she indicated that she was a
24 signatore to those Flynn agreements, including the
25 Armstrong agreement.

14 1 Q BY MR. DRESCHER: You mean Vicki Aznaran?

2 A Yes.

3 I had advised her they were no good, that
4 they were probably an obstruction of justice, and she
5 should not be a party to them.

6 MR. DRESCHER: I move to strike
7 everything after "I don't know."

8 THE REFEREE: Is there any number?

9 A I don't know.

10 But I know as late as 1988 Paul Morantz,
11 who was then representing Bent Corydon, was told
12 precisely that by Larry Heller, that he, as everybody
13 else would --

14 THE REFEREE: Thank you.

15 And the answer, the bulk of the answer is
16 stricken. The answer really is number, but I don't
17 know what number.

18 Q BY MR. DRESCHER: Where you refer to a
19 "Flynn settlement agreement" in here, do you include
20 Mr. Armstrong's settlement agreement with the Church
21 with his case signed in December of 1986 among those?

22 MR. PARKER: Objection, that assumes he's
23 seen the agreement.

24 MS. BARTILSON: He introduced it into
25 this case. So I guess you saw it.

15 1 A Not the entirety of it.

1 2 Because there were three agreements that
2 3 you didn't bother producing or putting into the
3 4 record; the indemnification of Armstrong, Flynn and
4 5 Cooley and Eberle by the Church.

6 Q BY MR. DRESCHER: Do you include Mr.
7 Armstrong's settlement agreement, which you entered
8 into evidence in this case, to be among what you refer
9 to as the "Flynn settlement agreement?"

10 A It is one of the Flynn settlement
11 agreements, yes.

12 THE REFEREE: "Flynn agreement" is kind
13 of a generic term?

14 MR. DRESCHER: It's a term of art for
15 this particular case. It's not a term of art like a
16 Mary Carter Agreement.

17 THE WITNESS: It may become one though,
18 Judge.

19 Q BY MR. DRESCHER: Did you make any kind
20 of fee arrangements with the Aznarans for your
21 representation of them in the beginning of June 1991?

22 A I'm sure I did.

23 Q What was it?

24 A I don't recall.

25 Q It's not in writing?

15 1 A It probably was.

16 2 Q Do you have a copy of it?

17 3 A I should.

18 4 I don't know if I have it though.

19 5 Q Would you mind producing it for us

20 6 informally?

21 7 A I think I would mind producing it

22 8 informally, formally.

23 9 I think I would interject the

24 10 attorney-client privilege in any event.

25 11 THE REFEREE: Are you asking me for a

26 12 ruling?

27 13 MR. PARKER: The question was whether he

28 14 would voluntarily produce it.

29 15 THE REFEREE: I think the answer was no.

30 16 Q BY MR. DRESCHER: Is the answer no?

31 17 A Yes.

32 18 THE REFEREE: Yes, the answer is no.

33 19 Q BY MR. DRESCHER: Did your office ever

34 20 receive the Aznaran case file from Ford Greene?

35 21 A That's a tough one.

36 22 Q It's a yes/no?

37 23 A No, it isn't necessarily a yes/no.

38 24 It had been sent to Van Sickle who had

39 25 refused to release it to my office. Eventually I

15 1 obtained that file, despite the protestations of
1 2 others, and sent it up to John Elstead since I was
1 3 actively interviewing other counsel to act as counsel
1 4 for the Aznarans, knowing full well that I did not
1 5 want, nor did I need this firefight.

6 So did I ever obtain it? It was turned
7 over to representatives of my office, per my demand,
8 and it was then transmitted up north. It never
9 actually entered the premises of my building though.

10 Q Was it sent to John Elstead?

11 A John Elstead or Ford Greene. I can't
12 remember which.

13 I take it back, it was John Elstead.

14 Q And Mr. Elstead made an appearance as
15 counsel of record for the Aznarans at the time that
16 you instructed that the file be sent to him?

17 A No.

18 Q It was before he had made an appearance
19 as an associated counsel?

20 A Yes, but he was being consulted on
21 whether he would come into the case. He certainly had
22 to take a look at the file to figure that out.

23 Q Do you remember when Judge Edelman
24 ordered that you cease being counsel of record for the
25 Aznarans and ordered that Ford Greene be restored to

1 that position?

2 A What he did was order that the approval
3 of my appearance in place of the Aznarans in persona
4 propria be vacated and that the appearance of the
5 Aznarans in persona propria in place and instead of
6 Ford Greene also be vacated. And that Ford Greene was
7 to be restored of counsel.

8 There would be an order to show cause
9 filed on or before a particular date, but the date
10 that that order came down, I don't remember, I just
11 don't want you mischaracterizing what the order said.

12 Q All I asked you is when it came down.

13 Have you ever spoken to John Karesco
14 about files you maintained in the Aznaran case to Ford
15 Greene? (Phonetic)

16 MR. PARKER: Objection, the question
17 assumes that he maintained files on the Aznaran case.

18 THE REFEREE: Just lay a foundation.

19 Q BY MR. DRESCHER: Mr. Yanny, did you
20 maintain any files on the Aznaran case during the time
21 that you represented them in June and July of 1991?

22 A During the period of time after my
23 appearance in the Aznaran case until I left the
24 Aznaran case I maintained files related to that
25 representation.

15 Q Did you ever speak to John Karesco about
1 2 delivering those files to Ford Greene after your
2 3 disqualification?

4 A First of all, I don't know that I was
5 disqualified. The courts revoked the appearance sue
6 spontae.

7 THE REFEREE: After you were no longer
8 counsel?

9 A John Karesco is a member of my office
10 staff.

11 I believe the privilege that applies with
12 respect to me in the representation is attorney-client
13 and also insofar as his assistance with respect to me
14 insofar as the work product privilege is concerned
15 goes from me to that employee.

16 Whether I spoke to him about transmitting
17 files or not, I believe, may fall within the scope.

18 MR. DRESCHER: A couple of foundational
19 questions?

20 THE REFEREE: Go ahead.

21 Q BY MR. DRESCHER: Is Mr. Karesco a member
22 of the bar in this state?

23 A I would have to ask him, but I don't
24 believe so.

25 Q Is Mr. Karesco a paralegal?

1 A I'm not going to characterize what he
2 does. I'm not much into that nonsense.

3 THE REFEREE: Aren't we really talking
4 about an an administrative or ministerial duty here,
5 not something that involves anything other than a
6 mechanical operation?

7 THE WITNESS: I don't know. The Judge
8 asked me a question.

9 THE REFEREE: I am asking you a question
10 to get your answer, because my state of mind, as you
11 probably gather, is that this wasn't a professional
12 function, this was closely akin to hiring a messenger
13 service to do something if that's in fact what
14 happened.

15 THE WITNESS: Just so the record is
16 straight, John is a jack of many trades and a master
17 of most. He does everything from legal research and
18 writing for me, he does on many occasions do
19 administrative work in the office as well.

20 THE REFEREE: From your country and mine
21 you can use a race horse to pull a cart, and I'm
22 saying was there an an occasion where you asked him or
23 instructed him to deliver a file?

24 I think that's a question you can answer
25 that's not an attorney work product or attorney-client

16 1 kind of problem.

2 THE WITNESS: I think John at one point
3 in time after I left the Aznaran case was instructed
4 to assemble my files and also the files that he had
5 picked up from Van Sickle's office relating to the
6 Aznaran case, to transport them up there, to help
7 everybody open the boxes, sort through them, explain
8 the contents of the files, make any copies that were
9 needed so I could comply with my duty of protection
10 with respect to myself and my right to copy files, and
11 see to it that a smooth transition was made to new
12 counsel and old friend revisited, Ford Greene.

13 Q BY MR. DRESCHER: To your knowledge did
14 Mr. Koresco deliver those filings?

15 A I haven't heard any complaints, so I
16 assume he did.

17 May I have a break for the restroom,
18 Judge?

19 THE REFEREE: Yes, it's 3:45. Let's take
20 a ten minute break.

21

22 (Recess taken 3:45 p.m. to 3:58
23 p.m.)

24

25 Q BY MR. DRESCHER: Mr. Yanny, did you ever

16 1 have any discussions with C. Tony Wright at any time
17 2 about replacing Ford Greene as the Aznaran's attorney?
18 3 MR. PARKER: Wasn't that question
19 4 previously asked?
20 5 MR. DRESCHER: No, the previous question
21 6 with Mr. Wright was any discussions Mr. Yanny had with
22 7 him since the filing of this suit.
23 8 A I don't recall.
24 9 Q BY MR. DRESCHER: Do you recall having
25 10 any communications with C. Tony Wright?
26 11 A Yes.
27 12 Q When was that?
28 13 A It was after the end --
29 14 I'd only be guessing, but I think it was
30 15 towards the end of Yanny 1. Maybe after Yanny 1 and
31 16 related to either going sailing or skiing.
32 17 And women.
33 18 Q In that order?
34 19 A Not necessarily in that order.
35 20 Q You don't recall any other communications
36 21 you had with Mr. Wright?
37 22 A Actually no, now that you put it that
38 23 way.
39 24 Q Mr. Yanny, let's change the subject I
40 25 guess.

1 Have you had any communications at all
2 with Karen McRae concerning the representation of the
3 Aznarans and their case against the churches?

4 A I'm sure of it, yeah.

5 Q Any time since the breakfast meetings to
6 which you referred?

7 A I'm sure of that too, yeah.

8 Q Was that a communication with Mr. McRae
9 about Ms. McRae substituting in as counsel for the
10 Aznarans?

11 A.

12 Q On how many occasions?

13 A A couple. Mabye a few.

14 Q About what time period?

15 A When they really needed a lawyer because
16 Ford was gone and you guys had filed a summary
17 judgment motion.

18 Q Did you have any discussions with her
19 after Judge Edelman had ordered you out of the case
20 and Ford Greene back into the case?

21 A I don't think so.

22 Q Just for the record, Ms. McRae is Ms.
23 Aznaran's sister, is that right?

24 A Yes, and an attorney licensed to practice
25 law in the State of Texas and also co-defendant with

1 myself in Yanny 1.

2 Q Did you have, at any time from the first
3 hearing about the first breakfast meeting 'til now,
4 have any discussions with any other lawyers about
5 representing the Aznarans, other than Ms. McRae?

6 A Yes.

7 Q Who?

8 A Mr. rattlesnake bite himself, Paul
9 Morantz.

10 He was once bitten, twice shot.

11 That's humor.

12 MR. DRESCHER: I doubt he would find it
13 funny.

14 THE WITNESS: He actually did when I
15 first said it.

16 Q BY MR. DRESCHER: On how many occasions
17 did you have such a discussion with Mr. Morantz?

18 A A couple.

19 Q When was it?

20 A Right around the time they really needed
21 a lawyer.

22 Q Not later?

23 A I don't think so. There was no need to
24 after they had a lawyer.

25 Q They had Ford Greene.

17 1 The question is after Judge Edelman had
18 2 ordered Ford Greene back into the representation did
19 3 you have any discussions with Mr. Morantz about
20 4 substituting in?

21 5 A No, it wasn't my job.

22 6 Q Did you have any discussions with any
23 7 lawyer concerning representation of the Aznarans after
24 8 Judge Edelman had ordered you out and Ford Greene back
25 9 in?

10 10 A Can I hear that back again?

11

12 12 (The record was read as follows:

13 13 Q Did you have any
14 14 discussions with any lawyer concerning
15 15 representation of the Aznarans after
16 16 Judge Edelman had ordered you out and
17 17 Ford Greene back in?)

18

19 19 A I don't recall.

20 20 There were a couple other people that
21 21 didn't call though. I really didn't get chance to
22 22 finish my answer before you cut me off.

23 23 Q BY MR. DRESCHER: Let me go back.

24 24 I'm wondering about the period after
25 25 Judge Edelman had ordered you to cease your

1 representation of the Aznarans and in the same order
2 ordered Ford Greene to come back into the case, did
3 you make any efforts to find new counsel for the
4 Aznarans?

5 MR. PARKER: Object to your
6 mischaracterization of Judge Edelman's order.

7 THE REFEREE: The fact that a question is
8 put a certain way doesn't mean it literally should be
9 taken that way.

10 MR. PARKER: Tell yourself that Your
11 Honor. He doesn't need to characterize the order to
12 ask the question.

13 That's a dig.

14 THE REFEREE: We're all talking about the
15 same order. Everybody has his idea of what the order
16 is. The order in question.

17 After that did you solicit any attorneys
18 to represent the Aznarans?

19 THE WITNESS: Is this the question?

20 THE REFEREE: That's my question, yes.

21 I think I'm paraphrasing Mr. Drescher's
22 question, but yes, that's the question.

23 THE WITNESS: I don't believe so.

24 In other words, I don't believe that I
25 solicited, after that point in time -- after the time

17 1 that Ford Greene came back in the case, the Aznaran
2 case -- I don't believe that I did much in the way of
3 anything. And I certainly didn't solicit other
4 counsel.

5 Q BY MR. DRESCHER: Let's focus on the time
6 that you've already identified when you had such
7 discussions with Ms. McRae and Mr. Morantz.

8 Ms. McRae declined to come into the case
9 on behalf of her sister and brother-in-law?

10 A She needed local counsel and she would
11 have needed somebody to make an appearance for her pro
12 hoc vice.

13 I may have also talked to Toby Plevin
14 during the same time.

15 Q Was Ms. McRae's only reason for declining
16 to represent her sister and brother-in-law the need
17 for a local counsel?

18 A You'd have to ask her.

19 MR. PARKER: Objection, that calls for
20 speculation.

21 Q BY MR. DRESCHER: Did Ms. McRae convey to
22 you any reason for declineing to represent Vicki and
23 Richard other than the need for a local counsel?

24 A Without somebody local it would be almost
25 inordinately expensive for her to engage that

1 representation, considering the nature of your
2 litigation tactics.

3 Q The question was did she convey to you
4 any reason other than the fact that she would need
5 local counsel?

6 A I just gave you another reason.

7 THE REFEREE: Is that what she said to
8 you?

9 A The rules are obvious.

10 THE REFEREE: We all know the rules, but
11 the question is what did she say to you, if you
12 recall, about why she wasn't going to take it on?

13 A That's basically what I remember, without
14 local counsel she could not remain pro hoc vice.

15 Q BY MR. DRESCHER: You don't recall any
16 other reason, do you?

17 A She just had a baby and she was busy
18 being a mom on a fairly full-time basis, and
19 practicing law as full-time in addition to that as she
20 could.

21 She had gone through some reorganization
22 in a business practice as a result.

23 Q You mentioned that you had contacted Ms.
24 Plevin --

25 A Yes.

1 Q -- with respect to try to find
2 representation for the Aznarans?

3 A Yes.

4 Q Sometime during June of 1991?

5 A June. Maybe July. The lapse over.

6 Q Even after you had made an appearance on
7 behalf of the Aznarans?

8 A Of course.

9 All I tried to do was to get a
10 continuance in the Aznaran case, of the summary
11 judgement motion so that the matter of representation
12 could be sorted out, one and two, in case they could
13 not find other counsel I could get the files and get
14 no other --

15 Q You took no other action while you were
16 counsel of record other than that?

17 A Not a thing.

18 Q You did discuss with Ms. Plevin coming in
19 on behalf of the Aznarans?

20 A Yes.

21 Q On how many occasions?

22 A Quite a few.

23 Q How many?

24 A Six or --

25 Q During June or perhaps July?

1 A Yes.

2 Q Did Ms. Plevin decline?

3 A Yes.

4 Q Why were you consulting with other
5 lawyers to represent the Aznarans?

6 A Why was I? Because I was counsel of
7 record.

8 Q So you're only talking about the period
9 of time when you were counsel of record when you were
10 trying to hunt down other counsel for them?

11 A I'd also been consulted by these people.
12 And once I had been consulted I felt in some respects
13 I was on the hook.

14 As an officer of the court your first
15 duty is to the courts. And if you've got to do
16 something to prevent a miscarriage of justice like
17 somebody taking advantage of people being in persona
18 propria, try to win an easy verdict by default, you do
19 what you have to. And that was all I was doing.

20 I asked for an extension of time as a
21 courtesy from Jack Quinn. He refused.

22 I went in ex parte to get an extension of
23 time to respond to the summary judgement motion, you
24 filed three of them as it turned out -- summary
25 judgement motions -- and I requested, made ex parte

8 1 application to continue each of them.

2 And during that entire period of time I
3 was looking for other counsel so you didn't get a
4 cheap and dirty win and these people got their day in
5 court and the worst you had to do was face the facts
6 in front of a trier of fact.

7 Q Did Ms. Plevin decline?

8 MR. PARKER: Asked and answered.

9 A I think he said she declined.

10 Q BY MR. DRESCHER: Did she convey to you
11 any reason for her declination?

12 A Yes, she did.

13 Q What was that?

14 A That she didn't want to do anything that
15 would disrupt the Corydon settlement.

16 That if, which even though the settlement
17 discussions began in May, didn't end up getting
18 consummated until December, and then by order of the
19 court as I understand. So that was a disincentive.

20 And also that she had very limited trial
21 experience and unless somebody, I think she only maybe
22 tried one case, and that was an unlawful detainer, a
23 retainer case out there in Riverside against you, in
24 which she won. Aside from that I don't think she had
25 much in the way of trial experience.

18 1 And if the matter had to go to trial it
2 was on a very short leash at the time. I believe you
3 were scheduled for trial within a matter of a couple
4 months. She would not be in a position to do it.

5 And she also stated that she would only
6 come in if Van Sickle came back in. She and Van
7 Sickle had worked out a deal whereby they were working
8 on stuff against Scientology.

9 Q Prior to your being informed by Mr. Van
10 Sickle about the breakfast meeting, how many
11 discussions with the Aznarans had you had, if any,
12 concerning your coming into their case to represent
13 them in front of Judge Edelman?

14 A You're talking about prior to the end of
15 the Yanny 1?

16 Q No, since the Yanny 1. February 28, 1991
17 I believe is when the judgment became final. I'm
18 going by your answer.

19 From the entry of the final judgment in
20 the Yanny 1 until the first, you first heard from Van
21 Sickle about the breakfast meeting, how many
22 discussions with the Aznarans did you have about you
23 representing them in front of Judge Edelman in that
24 case?

25 A I don't believe any.

1 Q Did they ever ask you to?

2 A I don't recall.

3 Q Did you ever suggest to them that you
4 could?

5 A I don't believe so.

6 Q Did you ever make any suggestion to
7 anyone that you could represent the Aznarans after the
8 entry of the final judgment in Yanny 1?

9 MR. PARKER: The question is overbroad.

10 It includes his counsel?

11 Q BY MR. DRESCHER: Let's exclude your
12 counsel.

13 A I don't recall, although it is my belief
14 that I could have.

15 Q It was your belief that you were not
16 disabled from representing them?

17 A You're right.

18 At this point the record, as it stands
19 the disqualification is an equitable proceeding and I
20 don't believe you people stand in any stead to seek
21 equity in that regard. But that aside.

22 Q When is the first time you ever heard the
23 name "Gerald Armstrong?"

24 A Isn't there a guy in one of those
25 Rocketeer movies?

1 I really couldn't recall to be honest
2 with you.

3 Q When did you first meet Gerald Armstrong?

4 A What do you mean by "meet?" Introduced
5 to?

6 Q Sure.

7 A Probably the early part of, maybe late
8 part of '89.

9 Q Who introduced you?

10 A Bent Corydon.

11 Q Where?

12 A In a courthouse.

13 Q Which one?

14 A The one that Bent saw his happy day.

15 MR. PARKER: I guess that's ambiguous.

16 Are you talking about Superior Court?

17 THE WITNESS: Yes.

18 Q BY MR. DRESCHER: When you were counsel
19 for any of the Churches of Scientology were you ever
20 given briefings on Armstrong's litigation with the
21 Church?

22 A Yes.

23 Q By whom?

24 A Marty Rathbun.

25 David Miscavige.

1 There were -- let's see --

2 Greg Ryerson.

3 Vicki Aznaran and people under Vicki as
4 President of the Religious Technology Center, and
5 within her command.

6 Q Any names come to mind of those?

7 A Ryerson.

8 Q You mentioned him.

9 Other than Rathbun, Miscavige, Ryerson
10 and Vicki, who would you characterize as "people under
11 Vicki?"

12 A I said Ryerson. I know I already
13 mentioned him.

14 Let me see here. Probably, I believe her
15 name last -- I knew it -- was Joyce Van Dyke. I can't
16 remember what her other name was prior to that.

17 Q How about McShane?

18 A I don't know that McShane really told me
19 much about the Armstrong case. I believe he was out
20 getting his mind right in the desert.

21 Q Let me ask you this then.

22 To the best of your knowledge as you sit
23 here are those the names of people who gave you
24 information about the Armstrong case from the Church?

25 Are those the ones you can come up with

19 1 now as you sit here?

2 A Who is that Australian kid, Allan

3 Cartwright.

4 Q Anybody else?

5 A Not necessarily under Vicki.

6 Perhaps McShane. McShane really wasn't

7 under Vicki, he was sort of laid in on a special label

8 under ASI. He held a position called Legal Affairs

9 Manager.

10 Q Do you recall anyone other than the ones

11 you already named who briefed you on the Church's

12 litigation with Mr. Armstrong?

13 A McShane wasn't under Vicki.

14 Q Anyone else that you answered. I'm not

15 asking about --

16 A But we were. Earle Cooley may have said

17 a thing or two or three.

18 Brief me on -- this is the part --

19 Armstrong litigation, do you include the settlement?

20 Q Sure.

21 A There were a couple other people whose

22 names don't come to me that were in the "Armstrong

23 unit" as it was called.

24 There was another person that briefed me

25 on an Intel level about some of the dirty ops that had

1 been worked on Armstrong. Her name was -- give me a
2 second.

3 Her name escapes me, but she was head of
4 Intel up on the fourth floor. And she debriefed me on
5 some of the things that had been done to Armstrong.

6 Q Anybody else?

7 A Such as beating him up in Boston.

8 Q The question is, Mr. Yanny --

9 THE REFEREE: Just who.

10 A You let me think about that a while and I
11 will come up with the rest of the names. Right off
12 the top of my head I can't.

13 Q BY MR. DRESCHER: Let me ask you a couple
14 other questions.

15 Is this all one briefing or one session?

16 A A couple of 'em.

17 Q About how many?

18 A There was the briefing I got up in
19 Portland.

20 Q How many?

21 A I'm trying to count 'em off.

22 Q Count to yourself and just give me a
23 number?

24 A Why don't you just let me count my own
25 way?

19 1 THE REFEREE: Alright gentleman, it's
2 getting late in the day and we're all getting a little
3 tired.

4 A There was the one newspaper in Portland.
5 That was given by Miscavige, Rathbun,
6 Vicki Aznaran, Earle Cooley, during the
7 cross-examination of Mr. Armstrong during the
8 Christopherson trial.

9 And prior thereto.

10 You want to know what they involved?

11 Q BY MR. DRESCHER: No, I just want to know
12 how many?

13 A There was one actually prior to that.
14 That involved review of Breckenridge's intended
15 decision, the memorandum of decision, whatever it was
16 called.

17 THE REFEREE: Memorandum of intended
18 decision probably.

19 THE WITNESS: Yes, sir.

20 A Nice piece of work. Vicki Aznaran
21 briefed me on that. And discussed it with me.

22 I'm missing a couple, but there was some
23 towards the end regarding the settlement discussions
24 and the secrecy provisions and the silencing
25 provisions and the withholding of the entirety of the

9 1 evidence or the entirety of the record from Judge
2 Breckenridge, and not putting all of the agreements
3 into one agreement and the maintenance of a fraudulent
4 appeal.

5 Those were given to me by Marty Rathbun,
6 David Miscavige and Vicki Aznaran.

7 Q In person?

8 A In -- face-to-face.

9 They certainly wouldn't talk about a
10 thing like that on the phone.

11 Q All of these were face-to-face?

12 A Yes.

13 And then there were very small things
14 during the course of time. How we were going to fit
15 in a deposition here and there.

16 That would have been given by the
17 underlings, people under Vicki.

18 Earle would have been, Earle Cooley would
19 have been involved in some of those discussion towards
20 the time of the settlement, because he was very
21 heavily involved in that.

22 Q A total of maybe 10 to 12 such sessions?

23 A I wouldn't want to speculate.

24 Q You've identified particular ones, but as
25 to the last one you said there were various smaller?

1 A I didn't say that. I said between.
2 Those are the major ones that come to
3 mind right now. Those were the people that were
4 involved, and there were smaller ones between the
5 beginning ones and the last one, which was the
6 settlement agreement.

7 Linda Hammel that was head of Intel. She
8 was the chief controller of most of the intelligence
9 all over the world from right there on the fourth
10 floor of the blue building. She briefed me on some
11 post settlement things, what Armstrong was doing, who
12 he was seeing, who he was making phone calls to.

13 Q You can't give a number actually of how
14 many total?

15 A No.

16 Q What were the circumstances concerning
17 your first meeting with Jerry Armstrong in 1989 at the
18 L.A. Superior Court?

19 A I really don't understand what you mean
20 by that.

21 Q Why were you there?

22 A It's a public courthouse.

23 Q Did you have any particular reason to be
24 there that day, to your recollection?

25 A I may have had a few to be there that

20 1 particular day.

2 Q Did Mr. Armstrong explain to you why he

3 was there that day?

4 A Did he what?

5 Q Explain to you why he was there that day?

6 A Not that I recall.

7 Q Did Mr. Corydon explain to you why Mr.

8 Armstrong was there?

9 A Not that I recall.

10 Q Was anyone else present other than you,

11 Mr. Armstrong and Mr. Corydon when Mr. Armstrong was

12 introduced to you?

13 A Perhaps Toby Plevin.

14 That's not to say I hadn't seen Jerry

15 Armstrong before that time. I had never been formally

16 introduced.

17 Q Where did you see him before that?

18 A The first time I saw him was on a stand

19 in the Christopherson trial, which would have been

20 early '85 if I'm not mistaken.

21 Q Are you a member of Mr. Armstrong's

22 Church?

23 A Yes.

24 Q What's the name of the Church?

25 A I only know it by the Church.

20 Q Do you know any other name for it other
2 than "the Church?"

3 A No.

4 By the way, you guys ordained him as a
5 minister.

6 Q Has his church ever ordained him as a
7 minister, to your knowledge?

8 A That's like saying who made the Pope the
9 Pope?

10 Q That is like saying who made the Pope the
11 Pope?

12 A Yeah.

13 Q He founded the Church in other words?

14 A Yeah.

15 He was an ordained minister of the Church
16 of Scientology. He broke off from the Church of
17 Scientology, and it's my understanding he formed his
18 own Church.

19 Q When did he do that, do you have any
20 idea?

21 A Probably at or about the time he
22 discovered Hubbard was a fraud and ran off with all
23 those documents you sued him for taking.

24 Q When did you first become a member of
25 Armstrong's church?

20

1 A Shortly after I met him.

2 He's a very spiritual kind of fellow. I
3 was very much impressed with him. His karma, his
4 beliefs, his principles.

6 A You pay a lot of dues first.

7 Q Are there any specific entrance
8 requirements, rules that you're aware of?

9 A That you should honor other people's
10 humanity.

11 That you believe in a power greater than
12 yourself.

13 That you be honest your dealings.

14 And that you realize that you are but a
15 trusted servant of something more important than you
16 are.

19 That you respect property rights but you
20 do not obsess on them.

That you respect vows and oaths given.

22 And that you act in unison with nature
23 and attempt always to do the most amount of good and
24 least amount of harm in the process of whatever it
25 that you do.

20 1 Q Are those precepts written down anywhere?
2 A In the hearts of the people that
3 understand them.

4 Q How about on paper?

5 A I don't read well anyway.

6 Q Do you know where those precepts that you
7 just described for the Armstrong Church are recorded
8 anywhere in writing?

9 A I don't personally know. But I'm sure
10 they are.

11 They're not all original.

12 Q Religious practice.

13 What religious practices, if any, have
14 you taken part in as a member of Armstrong's church?

15 A Counseling.

16 Q Anything else?

17 A Meditation.

18 Q Anything else?

19 A And instead of running around poles we
20 tend to run in straight lines for long distances.

21 Q Long distance running?

22 A Yes.

23 Q Any other religious practices?

24 A I really am feeling very uncomfortable
25 discussing my religious beliefs and my religious

1 1 practices.

2 I don't believe any court has the right
3 to in any event look into my religious beliefs or my
4 religious practices. And I've gone along with it this
5 far.

6 Q I'm not going to ask you to go much
7 further.

8 I just want to know if you're still a
9 member of Mr. Corydon's church?

10 A Yes.

11 Q What's the name of that?

12 A I think it's called the Life Arts Church.
13 Although not so much anymore. He's gone into a period
14 of more, you might say, self-introspection as opposed
15 to counseling to the public as much as he used to
16 since the settlement agreement.

17 Although he did perform a wedding a
18 couple weeks ago, I know that. On February 29th
19 actually.

20 Q Have you ever received any pastoral
21 counseling from Jerry Armstrong, yes or no?

22 A Yes.

23 Q When was the last time you received
24 pastoral counseling from Bent Corydon?

25 A Oh, I'm going to object on the basis of

1 1 priest-penitent privilege at this point in time. I'm
2 not going to waive that.

3 MR. DRESCHER: Here's the problem. The
4 injunction in Yanny 1 prevented Mr. Yanny from
5 representing the Aznarans and Mr. Corydon against his
6 former clients.

7 During the course of that litigation Mr.
8 Yanny became a member of Mr. Corydon's Church and
9 began asserting priest-penitent privileges which were
10 upheld.

11 Now when come to Yanny 2 and the
12 preliminary injunction addresses the Aznaran's and Mr.
13 Armstrong, now he's a member of Mr. Armstrong's
14 Church. We will go to the source of the exploring the
15 priest-penitent privilege with respect to Mr.
16 Armstrong. I think I'm entitled to know this.

21 THE WITNESS: It was also asserted in the
22 Mayo case, and upheld.

23 MR. PARKER: In any event, the foundation
24 for the assertion of privilege has been laid.

25 We do assert the privilege and we think

1 it lies ill in the mouth of the so-called Church of
2 Scientology, questioning religious principles of other
3 people.

4 MR. DRESCHER: I asked him the last time
5 if he was counseled by Corydon.

6 MR. PARKER: That was part of the
7 priest-penitent privilege.

8 You don't ask somebody the last time they
9 took communion.

10 THE REFEREE: I'll sustain the objection.

11 Q BY MR. DRESCHER: Mr. Yanny, are you a
12 minister in Mr. Armstrong's Church?

13 A Although I don't necessarily feel myself
14 worthy in that regard, I think I have been referred to
15 in that regard in a number of occasions, although I
16 have a lot to learn before I reach the level of
17 spiritual enlightenment that Mr. Armstrong has.

18 Q Are you a minister in Mr. Armstrong's
19 Church?

20 THE REFEREE: I think he answered that.

21 A (No response)

22 Q BY MR. DRESCHER: Have you provided
23 religious counseling to Mr. Armstrong, yes or no?

24 A Yes.

25 Q Mr. Yanny, have you ever hired Jerry

1 1 Armstrong to work for you or your professional
2 corporation as a paralegal?

3 A I think there was an attempt to do that.

4 Q When did that attempt take place?

5 A Probably June or July 1991.

6 Q You attempted to hire Mr. Armstrong to
7 work for you as paralegal?

8 A Yes.

9 Q Did you succeed?

10 A For a brief period of time I believe I
11 did.

12 His services became unnecessary and he
13 was not -- I may in the future, however, rehire him as
14 a paralegal in my office to work on many and
15 assorted -- he has quite good experience as I
16 understand it, in assisting in rather complex and
17 troublesome litigation.

18 Q So for some brief period of time in June
19 or July of 1991 Mr. Armstrong did work as a paralegal
20 for you?

21 A I don't know at present whether he did or
22 he didn't.

23 I remember there was an attempt and he
24 may have given some assistance. There was some
25 preliminary ground work laid for it. He certainly was

1 1 consulted in that regard, yes.

2 Q You were seeking to hire him to be a
3 paralegal for your firm, working on the Aznaran case,
4 weren't you?

5 A Yes. I may still hire him as a paralegal
6 in my office.

2 7 Q But back in June or July you hired him to
8 serve as a paralegal with respect to the Aznaran case,
9 didn't you?

10 A "Hired" is the tough question.

11 I didn't even take labor law. I think
12 that's asking me for a legal conclusion that I'm not
13 necessarily qualified to answer.

14 Q Did Mr. Armstrong perform any services
15 for you or your professional corporation as a
16 paralegal during the time you represented the Aznarans
17 as counsel of record?

18 A You know, I don't currently recall.

19 Q Did Mr. Aznaran -- Mr. Armstrong provide
20 any paralegal services with respect to the Aznaran
21 case in any way, shape or form, to your recollection?

22 A I don't recall.

23 Q Do you recall any type of work that Mr.
24 Armstrong performed as a paralegal in connection with
25 your offices?

2 1 A That's tougher.

2 I certainly had him listen to some phone
3 conversations so that people couldn't be asked about
4 them later. And he certainly did give me some
5 declarations about some facts that were essential to
6 oppose your motion to disqualify me in the Aznaran
7 case and your motion for a preliminary injunction in
8 my case. "My case" being Yanny 2, the one that brings
9 us here this happy day.

10 Q What telephone conversations with Mr.

11 Q Armstrong present?

12 A One was Van Sickle.

13 Q When was that?

14 A I don't remember the date.

15 Q Approximately what time of year was it?

16 A At the relevant time of year.

17 Q June or July of 1991?

18 A To the best of my recollection. You've
19 got the declaration.

20 Q Any others?

21 A Excuse me?

22 Q Any others other than the one to which
23 you're referring?

24 A Any other declarations?

25 Any other declarations Jerry has given

2 1 me?

2 Q Any other telephone calls other than the
3 one with Mr. Van Sickle that's referenced in my
4 Armstrong's declaration?

5 A I don't know. Off the top of my head I
6 can't remember.

7 Q Do you recall anyone else being on any
8 telephone call between you and Mr. Van Sickle in June
9 or July of 1991 other than the instance you have
10 testified about with Mr. Armstrong and the instance
11 you testified earlier with the Aznarans, to your
12 knowledge?

13 A Not that I presently recall. But if I do
14 I'll let you know.

15 Q Has Mr. Armstrong ever furnished you with
16 any documents concerning any Church of Scientology
17 other than the matters which you have filed in this
18 case?

19 A Could I hear that back please?

20 ///

21

22

23

24

25

2 1 (The record was read as follows:
2 Q Has Mr. Armstrong ever
3 furnished you with any documents
4 concerning any Church of Scientology
5 other than the matters which you have
6 filed in this case?)

7

A I really don't understand your question.

9 BY MR. DRESCHER: Putting aside the

10 documents that have been filed in this case that you
11 received from Mr. Armstrong, such as his declarations,
12 has Mr. Armstrong ever furnished you with any
13 documents concerning any Church of Scientology?

14 A Give me that back again.

15

16 (The record was read as follows:

17 Q BY MR. DRESCHER: Putting
18 aside the documents that have been filed
19 in this case that you received from Mr.
20 Armstrong, such as his declarations, has
21 Mr. Armstrong ever furnished you with any
22 documents concerning any Church of
23 Scientology?)

24

As I understand the question, I don't

2 1 think so.

2 Q BY MR. DRESCHER: Have you ever provided
3 Mr. Armstrong any documents concerning the Aznaran
4 case?

5 A That's a tough question.

6 He eventually became a paralegal in Ford
7 Greene's office and I transmitted documents to Ford
8 Greene's office after he was ordered back into the
9 Aznaran case. I really don't know who those documents
10 were turned over to by my people.

11 Q So you're not sure?

12 A I would think that anything related to
13 the Aznaran case that I had in my files I would have
14 turned over to Ford Greene's office after he became
15 counsel of record, directly to Jerry Armstrong.

16 I don't believe so. And not that I know
17 of. Let me put it to you that way.

18 Q Have you ever provided Mr. Armstrong with
19 any documents regarding any Church of Scientology?

20 A I don't believe so, no.

21 MR. DRESCHER: As Your Honor might
22 understand, it's sometimes difficult riding this
23 horse. I would like five minutes if I could, just to
24 review this.

25 THE REFEREE: Alright. It's about 20

2 1 minutes of 5:00.

2 Do you have a feel about how much longer
3 you might be?

4 MR. DRESCHER: That's part of what I'm
5 trying to determine.

6 THE REFEREE: Okay, let's take five.

7

8 (Recess taken 4:40 p.m. to 4:55
9 p.m.)

10

11 Q BY MR. DRESCHER: Mr. Yanny, when is the
12 last time you received religious counseling from Mr.
13 Armstrong?

14 MR. PARKER: You asked that question,
15 didn't you?

16 MR. DRESCHER: I thought I had too, but
17 our notes say otherwise.

18 A I'm again going to object on the
19 priest-penitent privilege.

20 THE REFEREE: Well, I just -- I find it a
21 little hard to see how this is going to be very
22 successfully explored, Mr. Drescher, in this tender
23 area.

24 MR. DRESCHER: I only ask it because it
25 was allowed as to Mr. Corydon.

2 1 MR. PARKER: No, it was not.

2 THE REFEREE: I don't think it was.

3 3 MR. PARKER: The question was when did
4 you last receive pastoral counseling from Corydon.

5 5 THE REFEREE: I think I sustained the
6 objection.

7 The state of the record is he has
8 received counseling from each of these gentleman.

9 MR. DRESCHER: And continues to.

10 THE REFEREE: He's not willing to say one
11 way or the other whether he continues to do so. Would
12 that be a fair characterization?

13 THE WITNESS: Yes, sir it would.

14 Q BY MR. DRESCHER: Mr. Yanny, have you had
15 any face-to-face or telephonic communications with Mr.
16 Armstrong concerning the Aznaran case?

17 A Any particular time frame?

18 Q Yes.

19 Let's say from the entry of final
20 judgment in Yanny 1 to the present.

21 MR. PARKER: Other than what he's already
22 testified to?

23 He mentioned the declaration.

24 MR. DRESCHER: Yes.

25 A Other than what I have testified to, I

3 1 don't believe so.

2 Q BY MR. DRESCHER: You indicated that you
3 had made some efforts to obtain counsel for the
4 Aznarans in the period of June-July 1991. You
5 mentioned Mr. Morantz, Ms. McRae, Ms. Plevin.

6 Did you contact anyone other than those
7 individuals?

8 MR. PARKER: He also mentioned Mr. Van
9 Sickle.

10 MR. DRESCHER: He did in a different
11 context.

12 Q BY MR. DRESCHER: Apart from Mr. Van
13 Sickle and Ms. Plevin, Mr. Morantz and Ms. McRae, did
14 you contact any other lawyer?

15 A I believe Charlie O'Reilly.

16 Q Do you remember approximately when you
17 made that contact with Mr. O'Reilly?

18 A I didn't say. You said did I attempt to.

19 Did I contact Mr. O'Reilly? No.

20 Q You were unable to?

21 A I was unable to contact Mr. O'Reilly.

22 Q Anyone besides those five lawyers?

23 A I believe I contacted Juliea Dragojevic
24 and attempted to contact Bruce Bunch, with Contos &
25 Bunch.

3 1 Q You say you attempted to contact Mr.
4 2 Bunch.

5 3 Q Were you unsuccessful?

6 4 A Yeah. Bruce didn't return the call.

7 5 Q What about Ms. Dragojevic?

8 6 A Ms. Dragojevic took my call.

9 7 Q Did you only have one call with Ms.
10 8 Dragojevic?

11 9 A I may have had two.

12 10 The first one indicated that they were
13 11 not willing to. As a result of the first one it
14 12 became clear that they were not willing to take cases
15 13 against Scientology and it became obvious that she had
16 14 previous conversations with people wherein she
17 15 represented as part of the Flynn settlements they were
18 16 not permitted to.

19 17 And in the second conversation she was
20 18 reluctant to talk about the matter and was not willing
21 19 to give sworn statements regarding the nature of the
22 20 agreement that had been reached with Contos & Bunch,
23 21 except that yes, she does remember signing a
24 22 settlement agreement or settlement agreements, and she
25 23 remembers it being videotaped, and she remembered
 24 expressing to Bruce Bunch she had ethical qualms about
 25 it. But aside from that she did not remember much at

3 1 all.

2 Q Apart from those lawyers was there anyone
3 else you contacted in the June-July 1991 period about
4 representing the Aznarans?

5 A I don't remember if there was.

6 I may have called Vincent Bugliosi, but I
7 believe he said -- it was either then or previously --
8 he said he had already had his watch stopped once.
9 That was enough.

10 Q You don't remember whether you contacted
11 him in June-July?

12 A I don't remember that time or previously.
13 There may also have been a call to Mr.
14 Georgiatis, who has since been sued by ya'all.

15 Q Did you speak with Mr. Georgiatis in the
16 period of June-July 1991 about representing the
17 Aznarans?

18 A I placed a call to. Did not make contact
19 with.

20 He's in Pittsburgh.

21 Q Anyone else in that same period?

22 A Off the top I can't recall.

23 John Elstead.

24 Q He ultimately agreed to associate in on
25 behalf of the Aznarans, did he not?

3 1 A I'm not sure what he agreed to do, but
4 2 eventually became counsel.

5 3 Q For the Aznarans?

6 4 A It's my understanding.

7 5 Q Did you speak with Mr. Elstead
8 6 personally?

9 7 A Met with him.

10 8 Q On how many occasions?

11 9 A I don't recall.

12 10 But I recall one we sat down at La
13 11 Corandolina over on Olivera across from the federal
14 12 courthouse. One of my favorite eating establishments.

15 13 MR. DRESCHER: They let you back in?

16 14 THE WITNESS: They did actually.

17 15 MR. DRESCHER: They have new owners.

18 16 THE REFEREE: Off the record.

19

20 18 (Discussion held off the record.)

21

22 20 Q BY MR. DRESCHER: You met with Mr.
23 21 Elstead at La Corandolina?

24 22 A Yes.

25 23 They kept me outside.

26 24 Q When was that?

27 25 A Before I left the Aznaran case and Ford

3 1 Greene stepped back in.

2 Q Did Mr. Elstead agree to represent the
4
3 Aznarans?

4 A That's tough.

5 I don't remember exactly what he agreed
6 to do at that time.

7 Q Did Mr. Elstead ever agree to you, his
8 agreement that he would represent the Aznarans?

9 A Yes.

10 Q How did he do so, in person, by
11 telephone?

12 A By telephone.

13 Q Approximately when?

14 A I haven't the foggiest.

15 Q Were you still counsel of record for the
16 Aznarans at that time?

17 A I don't recall.

18 Q I've got Elstead.

19 Bugliosi.

20 Georgiatis.

21 Dragojevic.

22 Bunch.

23 Van Sickle.

24 O'Reilly.

25 Marantz.

4 1 McRae.

2 And Plevin.

3 Any other lawyers you attempted to
4 contact to represent the Aznarans?

5 A I contacted a whole slew of 'em prior to
6 the Aznarans actually filing suit back in '88, as I've
7 previously testified. So -- I didn't bring down the
8 list of people.

9 Q I didn't ask about that.

10 A That said she didn't want to because she
11 had grandchildren and life was too short.

12 And I didn't bother going through the
13 ones that said they had already been interviewed by
14 ya'all -- when I say "ya'all" I mean the
15 organization -- so they had potential conflicts of
16 interest.

17 As I sit here right now I can't recall.
18 There was a brief period of time that was available to
19 do something. So -- otherwise our papers would have
20 been tarney as they say. (Phonetic)

21 I do remember Elstead said he wanted to
22 look at the files first. That was important for him
23 to get the files so we tried to track the files down.
24 We tracked them to Van Sickle's office during the
25 period of time of the breakfast meetings.

4
1 Q So you started talking with Mr. Elstead
2 during the period of the breakfast meetings?

3 A Those breakfast meetings, hell, they
4 continued clear into December of last year, didn't
5 they?

6 Q Is that right?

7 And what do you base that on?

8 A On Van Sickle's statements probably.

9 Q Probably? You're not sure?

10 A I'm almost positive.

11 Q So how many meetings were you told there
12 were between June and December of 1991?

13 A I don't recall the number.

14 Q But you remember Van Sickle telling you
15 they continued until what, December of last year?

16 A Hell Bill, they weren't all breakfast
17 meetings. You and I sat down to dinner with Jack
18 Quinn and Van Sickle ourselves one evening at
19 Morton's.

20 Q So you're including a settlement meeting
21 that we had at Morton's on a week night sometime in
22 the fall, and the breakfast meetings?

23 A I don't remember if it was a week night,
24 but I do remember we went there.

25 Q Did you --

4 A And there were discussions now that I
1 think about it, by ya'all, regarding further meetings
2 that had taken place, and also that further
3 discussions were going to take place, and Quinn's
4 comments that Corydon's case wasn't worth 1.3 million
5 dollars. Remember? Although that you had agreed to
6 pay that.

7

8 Q That was said at Morton's?

9 A Yes.

10 Once before you got there and once after
11 you had your third drink.

12 Q What has that got to do with it?

13 A I don't recall.

14 Q What was I drinking?

15 A I don't recall. You had some trouble
16 deciding what to order, so you suggested that the
17 waiter bring whatever they thought was appropriate.

18 Q Do you recall settlement of that case
19 being discussed at Morton's that night?

20 MR. PARKER: This case?

21 Q BY MR. DRESCHER: Yanny 2?

22 A Yes.

23 Q You do?

24 A Yes.

25 Q Do you remember, do you share my

4
1 recollection that basically the discussion of
2 settlement was pretty much over by the time the salads
3 arrived?

4 MR. PARKER: Your Honor, I object to
5 discussions relating to settlement as privileged under
6 1472 of the evidence code.

7 And they're certainly not relevant to any
8 issues of liability and damages in this case, and I
9 doubt seriously that you want to get into it.

10 THE REFEREE: What's your thought? I
11 can't see that it can lead to anything.

12 MR. DRESCHER: The only question I asked
13 him, Your Honor, was if he remembered whether
14 settlement discussions were pretty much over by the
15 time the salad course arrived. I don't know how that
16 gets into content of it.

17 THE REFEREE: I don't either, but I'm
18 going to sustain the objection.

19 MR. DRESCHER: The next question would
20 have been Mr. Yanny talking about his IRS connection
21 and the things he told him. We're right back there
22 Your Honor.

23 You're standing by the earlier ruling?

24 THE REFEREE: Yes.

25 Q BY MR. DRESCHER: Did you participate in

4 1 any other breakfast club meetings, as you call them,
2 other than the one at Morton's?

3 A I don't know necessarily that I
4 participated in a breakfast club meeting.

5 That meeting that we had, the breakfast
6 club meetings were discussed, the fact that others had
7 occurred and the fact that continuing discussions were
8 going to happen.

9 And also some of the details of the
10 Corydon settlement were discussed by yourself, Mr. Van
11 Sickle and Mr. Quinn in my presence. I don't consider
12 what I participated in to be one of the breakfast club
13 meetings.

14 Q Mr. Yanny, how did you first become aware
15 that the Aznarans had substituted themselves in pro
16 per in place of Ford Greene?

17 MR. PARKER: I think that question was
18 previously asked and answered.

19 THE REFEREE: If it was I'm not sure of
20 the answer. I have some recollection that there was
21 testimony that it was from Mr. Van Sickle, but
22 that's --

23 MR. DRESCHER: That was a different
24 subject.

25 Q BY MR. DRESCHER: This one I'm asking

1 specifically how he became aware that they actually
2 substituted themselves in pro per?

3 THE REFEREE: You can answer.

4 A I'm not sure how exactly I first became
5 aware.

6 I became aware when there was a problem,
7 that much I know. And I had previously refused to
8 testify, but I think the Aznarans had said to me --

9 MR. PARKER: He want to know the source
10 of the information without regard to content.

11 A It was either Van Sickie or the Aznarans.

12 Q BY MR. DRESCHER: Did the Aznarans ever
13 ask you to enter the case as their counsel of record
14 in the period of June 1991?

15 A Yes.

16 Q Which Aznarán?

17 A I don't remember.

18 0 Could it have been both?

19 A It could have been.

Was it done telephonically or in person?

A It would have been telephone.

Q Did they call you or did you call them?

23 A I believe they called me.

Q. What was the substance of that

25 communication or the issue of you representing them?

5 1 MR. PARKER: Object, attorney-client
2 privilege.

3 A I will join in the objection, preserving
4 it for the Aznarans.

5 THE REFEREE: Sustained.

6 Q BY MR. DRESCHER: During the course of
7 that telephone conversation in which the subject of
8 your representing the Aznarans first arose, did you
9 agree to do so?

10 A Let me say this, this is very delicate
11 insofar as it involves attorney-client communications.

12 I will say this. The fact that I made an
13 appearance in this case, substituting in in place of
14 the Aznarans, had previously been prior to my
15 appearance as pro per speaks for itself.

16 Q What time passed between the telephone
17 call for the Aznarans and the time which you entered
18 your appearance?

19 A I haven't the foggiest idea.

20 Q Was it more than a week?

21 A I just got done saying I didn't have the
22 foggiest idea.

23 Q Was it more than two weeks?

24 A My answer doesn't change.

25 Q Was it more than a month?

5 1 A I'm not going to even bother.

2 THE REFEREE: I don't think this is
3 profitable.

4 MR. DRESCHER: These are key points that
5 the amnesia keeps occurring on.

6 THE REFEREE: That's the nature of life.

7 Q BY MR. DRESCHER: When you were making
8 the phone calls, et cetera, you mentioned one person
9 to me, that was with Mr. Elstead.

10 When you were calling Mr. Morantz, Ms.
11 McRae, Ms. Plevin, attempting to reach Mr. O'Reilly
12 and the rest, was that after that telephone
13 conversation in which you had been asked to represent
14 the Aznarans?

15 A I couldn't be certain of that. But it
16 would have been at or about the same time, beginning
17 at or about the same time that I first found out about
18 the problem and the eventual finding of a solution.

19 MR. DRESCHER: Can I hear that back?

20 ///

21

22

23

24

25

1 (The record was read as follows:

2 A I couldn't be certain of
3 that. But it would have been at or about
4 the same time, beginning at or about the
5 same time that I first found out about
6 the problem and the eventual finding of a
7 solution.)

8

9 Q BY MR. DRESCHER: Over what period of
10 time, to your recollection, did you make the contacts
11 or attempted contacts with those lawyers?

12 A From the time I found out about the
13 problem until the time that the problem was solved.

14 Q Did you find out about the problem from
15 the Aznarans?

16 A Again, I tell you it was either first
17 discovered through Van Sickle or the Aznarans
18 probably.

19 I've already covered that. I really
20 don't know.

21 Q Mr. Yanny, how did you come to represent
22 Mr. Armstrong as his lawyer?

23 A In conversation --

Let me rephrase. After I met Mr.

25 Armstrong he was a potential witness in Yanny 1. And

5 1 we also began to develop a personal relationship and
6 2 also became friends. And he oftentimes visited my
7 3 home, oftentimes stayed at my home when he was in
8 4 town. He was a man of not many means and I didn't
9 5 ever close my door to him. So he spent time at my
10 6 home. When the need arose for him or the need arose
11 7 for me.

8 During the course of one or more of those
9 visits the subject was broached regarding my specialty
10 10 in intellectual property. And his potential need for
11 11 intellectual property counsel since he was a writer
12 12 and an artist amongst other things. And my potential
13 13 availability for consultation. And my potential
14 14 ability to service his needs as a client in that
15 15 regard.

16 Q When did this attorney-client
17 relationship begin?

18 A That calls for a legal opinion, but it's
19 my opinion that it began at the first moment I was
20 consulted in that regard by Mr. Armstrong.

21 Q When was that?

22 A I really couldn't tell you.

23 Q Was it after the beginning of the Yanny 1
24 trial?

25 A It may have been before.

1 Q Is it limited to your representation --
2 Have you served as an attorney for Mr.
3 Armstrong in any thing other than intellectual
4 property matters?

5 A No.

6 Q You said that Mr. Armstrong is a writer
7 and an artist?

8 A Um hum.

9 Q What has he written?

10 A Yes.

11 I don't know. If I did I wouldn't tell
12 you anyway, I would claim an attorney-client privilege
13 if it had been conveyed to me.

14 Q Have you ever seen -- yes or no, I'm not
15 interested in anything about it -- have you seen any
16 manuscripts --

17 A This is delicate and I'm going to have to
18 interpose the attorney-client privilege on behalf of
19 Mr. Armstrong insofar as his literary works.

20 THE REFEREE: Read the question back to
21 us.

22 ///

23

24

25

6 1 (The record was read as follows:

2 Q Have you ever seen -- yes
3 or no, I'm not interested in anything
4 about it -- have you seen any
5 manuscripts --)

6

7 MR. PARKER: I object, not only on the
8 attorney-client privilege grounds, but it's simply not
9 relevant whether he's seen manuscripts.

10 THE WITNESS: It's also vague.

11 THE REFEREE: Well, it's pretty vague.

12 But whether or not it is -- again Mr. Drescher, I'm
13 not sure that this leads down a path that can be
14 followed. If he's seen the manuscript, yes or no, so
15 what?

16 MR. DRESCHER: Well --

17 THE REFEREE: You can consult somebody on
18 legal problems without overseeing any papers.

19 Q BY MR. DRESCHER: Let me rephrase it.

20 Have you ever seen a book called
21 Defendant's Appendix Mr. Yanny?

22 MR. PARKER: Objection, ambiguous.

23 A What?

24 THE REFEREE: With that title?

25 Q BY MR. DRESCHER: Yes.

6 1 Have you ever seen a book or manuscript
2 entitled Defendant's Appendix?

3 MR. PARKER: Now the question is changed.
4 A book and a manuscript, I think of them as being
5 different.

6 Q BY MR. DRESCHER: Let's start with a
7 manuscript entitled Defendant's Appendix?

8 A Can I hear that again?

9 I don't know what you mean by
10 "manuscript." If you want to ask me --

11 Q Have you ever seen any tangible item with
12 the title Defendant's Appendix outside of a court of
13 law?

14 A Outside of a court of law?

15 Yes, I have.

16 Q Describe that object?

17 A That is something that was submitted in
18 the court of appeals by Mr. Armstrong in the appeal
19 that you all took of Judge Breckenridge's decision
20 that Mr. Armstrong eventually won, and which resulted
21 in a published opinion which included a number of
22 exhibits.

23 Q You obviously don't understand the sense
24 in which I intended.

25 Mr. Armstrong has testified in deposition

6 1 that he has written a couple of books on Scientology.
2 And is seeking to have them published.

3 Are you aware of whether Mr. Armstrong
4 has ever published a book on the subject of
5 Scientology?

6 A If I was and I got that information from
7 my client I would object on the grounds of
8 attorney-client privilege. Insofar as it relates to
9 literary matters.

10 THE REFEREE: If something is published
11 it's hard for me to see how attorney-client privilege
12 could come into it unless it's published anonymously.

13 Do you know whether he's published such a
14 book? You can answer that yes or no.

15 THE WITNESS: I don't know that he has
16 published any such book.

17 Q BY MR. DRESCHER: Did Mr. Armstrong give
18 you what he has characterized in his deposition as one
19 of his written books entitled Defendant's Appendix?

20 A I'm not aware of Mr. Armstrong's
21 deposition testimony in that regard. And insofar as
22 the question premise or premises in that regard, I
23 don't really know how to answer that.

24 Q Has Mr. Armstrong ever give you a copy of
25 the book entitled Defendant's Appendix?

6 1 A I don't understand the question.

2 Q What about the question don't you
3 understand?

4 A If I could tell you that I wouldn't
5 have --

6 MR. PARKER: If it's not published then
7 it's privileged. If it is published then I agree it
8 is not privileged. But the word "book" --

9 THE REFEREE: "Book" can have more than
10 one meaning.

11 Q BY MR. DRESCHER: Has Mr. Armstrong ever
12 provided you with a copy of any of his writings, yes
13 or no?

14 MR. PARKER: We objected to that before
15 Your Honor.

16 It's overbroad in that it can include
17 non-published works of a confidential nature.

18 Q BY MR. DRESCHER: Let me take a cue from
19 Mr. Parker.

20 Has Mr. Armstrong ever given you a
21 non-published work with the title Defendant's
22 Appendix?

23 MR. PARKER: Objection, based on
24 attorney-client privilege.

25 It's not probative of any issue in this

7 1 case.

2 A I don't know what's published, what's
3 unpublished, and I don't know the context in which you
4 mean "published, unpublished."

5 I really don't understand your question
6 and I really can't answer it.

7 Q BY MR. DRESCHER: Have you ever
8 represented Mr. Armstrong with respect to any literary
9 matters of his concerning the Church of Scientology?

10 A The subject matter of Mr. Armstrong's
11 literary works I will not get into based on
12 attorney-client privilege.

13 MR. DRESCHER: I need a ruling on that.

14 THE REFEREE: Well, as you stated, that
15 he's consulted you on literary legal problems, is that
16 correct?

17 THE WITNESS: Yes, Your Honor, the
18 general subject matter is no problem.

19 THE REFEREE: Have you given him advice?

20 THE WITNESS: Yes.

21 THE REFEREE: In this field?

22 THE WITNESS: Yes.

23 THE REFEREE: Mr. Drescher, can we really
24 explore this further?

25 MR. DRESCHER: The only thing that I'm

7 1 trying to explore is whether Mr. Armstrong has been
8 representing by Mr. Yanny with respect to Mr.
9 Armstrong's literary endeavors, yes or no, involving
10 Scientology?

11 5 THE REFEREE: What does "represented"
12 6 mean?

13 7 MR. DRESCHER: Has served as a lawyer who
14 8 has provided intellectual property advice. He said it
15 9 earlier today, he represented him in intellectual
16 10 property matters.

17 11 I think, Your Honor, in that context the
18 12 feining of not understanding a manuscript, not
19 13 understanding a book is particularly indicative of why
20 14 this question deserves an answer.

21 15 I'm not seeking to explore any
22 16 communications between Mr. Yanny and Mr. Armstrong.
23 17 All that I've asked is whether or not a particular
24 18 book or manuscript with the title that Mr. Armstrong
25 19 testified to in this case is one which Mr. Yanny has
seen.

26 21 MR. PARKER: He already testified that
27 22 didn't ring any bells. If you have a copy, show it to
28 23 him.

29 24 THE REFEREE: I think that is the state
30 25 of the testimony, isn't it?

7 1 MR. DRESCHER: I don't, Your Honor.

2 I think that when the issue becomes as
3 clear as it has been from the beginning from the entry
4 of the preliminary judgment in this case, where Mr.
5 Yanny has represented Mr. Armstrong with respect to
6 matters related to the Church, or substantially
7 related to matters which Mr. Yanny represented the
8 Church in the past, I think it's an incredibly
9 overbroad view of the attorney-client privilege
10 whether he's given him a book entitled a specific
11 title to which Mr. Armstrong has already testified.

12 12 MR. PARKER: He asked him whether he was
13 aware of a document called Defendant's Appendix. Mr.
14 Yanny testified he thought he was aware of a document
15 by that name filed in the court of appeal in
16 connection with the Armstrong litigation.

17 17 He no sooner said that than Mr. Drescher
18 said you obviously don't understand my question. We
19 have been at it ever since. He told him the only
20 document that matched that description. He wasn't
21 satisfied with that answer.

22 Q BY MR. DRESCHER: Is that the only
23 document that you're aware of that says that
24 description as your counsel just put it?

25 A What?

2

3 (The record was read as follows:

4 Q BY MR. DRESCHER: Is that
5 the only document that you're aware of
6 that says that description as your
7 counsel just put it?)

8

9 A I am so lost at this point as to what
10 you're asking about.

11 THE REFEREE: Alright.

12 Mr. Drescher, are we asking questions
13 concerning any material relative to the Church? Are
14 we asking questions relative only to the appendix
15 document, whatever it is?

16 MR. DRESCHER: I'm having Mr. Armstrong's
17 deposition transcript pulled so I don't misspeak.
18 Because I want to make sure we're absolutely clear on
19 this. I don't want to dwell any further on it if Mr.
20 Yanny doesn't have any knowledge.

21

24

25 MR. PARKER: Maybe while Mr. Ward is

1 looking for the deposition I can talk to the witness.

2

3 (Whereupon, the witness

4 and counsel left the deposition

5 room)

6

7 MR. DRESCHER: I'm not going to dwell on
8 this. What I have here is just a partial. I'm not
9 going, I don't think it's fair to rely strictly on a
10 digest.

11 I'm attempting to probe what I've read in
12 Mr. Armstrong's testimony concerning what Mr. Yanny
13 represented him in regard to whether it's literary
14 affairs of Mr. Armstrong related to Scientology or
15 not.

21 Mr. Armstrong has testified that he gave
22 Mr. Yanny a copy of a written literary product
23 entitled Defendant's Appendix, earlier 1991, March or
24 April of '91, and Mr. Armstrong has testified that he
25 is unaware of why he has not discussed his literary

7 1 ventures regarding Scientology with Mr. Yanny as his
8 2 lawyer.

3 I'm simply trying to probe that. I don't
4 want to get into any matters based on my notes
5 strictly and Mr. Yanny appears to have. Either he is
6 not understanding what I'm saying, for design, or I'm
7 simply not making myself clear on form.

8 I will deal with that.

9 THE REFEREE: Is it my understanding that
10 this Director's Appendix (sic) whatever it is, was a
11 part of a court record in an appeal?

12 MR. DRESCHER: No, I think -- the way I
13 understand it Your Honor, Defendant's Appendix is a
14 title of the book just as Witness for the Prosecution.
15 That's all I have been trying to ask.

16 THE REFEREE: Is it a published book?

17 MR. DRESCHER: All I can go on is Mr.
18 Armstrong's indication that it is not.

19 THE REFEREE: Alright.

20 Q BY MR. DRESCHER: So -- one question --
21 have you ever seen a written product by Gerald
22 Armstrong entitled Defendant's Appendix?

23 MR. PARKER: I object to the question on
24 the grounds that it's been previously asked and
25 answered.

8 1 To the extent that he's inquiring about a
9 2 document that has not been published and was given to
10 3 him by a client who was consulting him on literary
11 4 matters, it is not his privilege to disclose that
12 5 information, even the fact of its existence is
13 6 confidential to an artist or a writer. Mr. Armstrong
14 7 is not represented here.

15 8 THE REFEREE: We have been back and forth
16 9 on this question two or three times.

17 10 My recollection is that in response to an
18 11 earlier question Mr. Yanny said something about
19 12 something being incorporated as a part of a document
20 13 filed with the court of appeal in some aspect of this
21 14 dispute. These overall disputes.

22 15 But other than that, I'll sustain the
23 16 objection.

24 17 MR. DRESCHER: I would -- I'll note that
25 18 in light of the testimony given by Mr. Armstrong
1 19 earlier and the fact that he will be back next week, I
2 20 will explore it with him. But it may lead me to seek
3 21 to reopen this deposition, depending on what Mr.
4 22 Armstrong says.

5 23 THE REFEREE: We'll sure mount that hill
6 24 if and when.

7 25 ///

1 (Discussion held off the record.)

2

3 Q BY MR. DRESCHER: Have you ever acted as
4 Mr. Armstrong's attorney in any matter not involving
5 intellectual property?

6 A Again, I'm going to have to interpose the
7 attorney-client privilege.

THE REFEREE: Answer it yes or no please.

A To the best of my understanding, no.

13 Q BY MR. DRESCHER: On how many occasions,
14 to the best of your recollection, has Mr. Armstrong
15 been a guest at your home?

16 A I don't know.

17 MR. PARKER: That's really irrelevant.

18 What does that have to do with this case?

19 MR. DRESCHER: What I'm trying to do,
20 Your Honor, is try to isolate the point in time at
21 which Mr. Yanny's attorney-client relationship with
22 Mr. Yanny began.

23 THE REFEREE: I'm not sure this is a way
24 to get to that. But let's go a little --

25 Q BY MR. DRESCHER: I believe you testified

8 1 that you're not sure when Mr. Armstrong first was a
9 2 guest at your home, is that correct?

10 3 A The exact date, no, I'm not sure.

11 4 Q Can you give me a year?

12 5 A No.

13 6 I take that back, the first time Mr.
14 7 Armstrong was a guest in my home was the very first
15 8 time I met Mr. Armstrong.

16 9 Q Sometime early or late 1989, is that
17 10 correct?

18 11 A No, it would have been sometime in late
19 12 1989.

20 13 Q From that first time he was a guest at
21 14 your home, approximately how long before you first
22 15 acted as his attorney?

23 16 A I don't know how long he stayed there.
24 17 He may have consulted me even during that first visit
25 18 about some aspects of intellectual property,
26 19 particularly as it related to graphics as opposed to
27 20 textural intellectual property works.

28 21 I'm talking about things like drawings,
29 22 paintings. Ask him.

30 23 Q If I might invite your attention to the
31 24 Sixth Affirmative Defense in Exhibit 2, your amended
32 25 answer.

8 1 THE WITNESS: Before we do this can I
9 2 have a bathroom break?

10 3 THE REFEREE: Alright. Very brief.

11 4

12 5 (Recess taken 5:25 p.m. to 5:55
13 6 p.m.)

14 7

15 8 Q BY MR. DRESCHER: Mr. Yanny, if I might
16 9 ask you to look at page 12 of your amended answer?

17 10 A (Complying)

18 11 Q Particularly starting on the last line.
19 12 It's the Sixth Affirmative defense: "Failure to
20 13 Exhaust Other Remedies."

21 14 Mr. Yanny, what facts do you have
22 15 personal knowledge to support the allegation you make
23 16 in that Sixth Affirmative Defense?

24 17 MR. PARKER: I object to the form of the
25 18 question. It's a question that calls for his legal
 19 conclusion as to what is or is not an available remedy
 20 which they failed to exhaust.

26 21 Secondly, I object that the question,
27 22 literally construed, calls for my client to disclose
28 23 theories and facts that we've defended and we've
29 24 shared with him as our client in confidence, but which
30 25 would violate the attorney work product privileges.

9 1 On that basis I think the form of the
2 question is improper.

3 MR. DRESCHER: It's a verified answer.

4 Mr. Yanny has signed the verification on behalf of
5 both defendants. And this is included in it. I just
6 want his personal knowledge of the facts that he
7 contends supports this.

8 MR. PARKER: The verification doesn't
9 change anything.

10 Obviously we hire lawyers because we
11 can't do some things ourselves. This is my
12 responsibility and obviously I'm responsible for this
13 document. Contention interrogatories is where you get
14 that information, not from a witness. Even though he
15 may be a lawyer, that doesn't make him an expert in
16 these areas of law.

17 THE REFEREE: Well, sustained.

18 And I gather that that representation,
19 that comment by counsel means that a contention
20 interrogatory would be responded to in detail and not
21 with any kind of objection or delay considering the
22 amount of time remaining before trial?

23 MR. PARKER: There is a judicial counsel
24 form interrogatory that is designed precisely for that
25 purpose. For all I know you may have already served

9 1 it upon us.

2 MS. BARTILSON: I'm not sure.

3 MR. PARKER: If you haven't I'm not
4 telling you any secret. We tried to be detailed, as
5 you can see.

6 MR. DRESCHER: I'm just surprised that
7 someone, without shame, would admit that information
8 was being fed to their clients on facts that he
9 subscribes to, since there isn't going to be an
10 objection to contention interrogatories concerning
11 affirmative defenses, I wonder since today is the
12 10th --

13 MR. PARKER: We'll do it on an expedited
14 basis. When I'm done taking your deposition we'll
15 have a great deal more information that we will be
16 able to share with you. It's a win/win proposition.

17 MR. DRESCHER: I hate to ask Your Honor,
18 three minutes to go over one thing with my client.

19 MR. PARKER: Is 20 days acceptable?
20 We'll get it to you tomorrow -- by the 31st.

21 MR. DRESCHER: Yes.

22 Q BY MR. DRESCHER: Mr. Yanny, when was the
23 first time you talked with Vicki Aznaran following the
24 entry of judgment in the Yanny 1 trial?

25 MR. PARKER: I believe that was asked and

9 1 answered. Try to do it again if you can.

2 A I don't recall.

3 It would have been at or about the same
4 time the Judge --

5 You're talking about the July, the thing
6 really was one in July. The Judge came out with a
7 decision on July 13, '90. After that it was all over
8 but the hootin' and the hollerin'.

9 Q Let's take July 13, 1990?

10 A I'm sure I would have called her at or
11 about the same time.

12 Q To the best of your recollection between
13 that call and June of 1991, on how many occasions did
14 you speak with Ms. Aznaran, either in person or by
15 phone?

16 A I don't think many in person at all.

17 Phone, quite a few times.

18 Q Can you give me approximate?

19 A I really can't.

20 Q Was it weekly?

21 A It was on an as-needed basis as the need
22 arose. I used their investigative services with some
23 of my other clients.

24 Q In the period from July 1990 to June
25 1991, did you have any conversations with Ms. Aznaran

9 1 in which she sought your advice as a lawyer with
10 2 respect to anything related to the Church of
11 3 Scientology?

12 4 A Say that again.

13 5 MR. PARKER: Could I hear it back?

14 6

15 7 (The record was read as follows:

16 8 Q In the period from July
17 9 1990 to June 1991, did you have any
18 10 conversations with Ms. Aznaran in which
19 11 she sought your advice as a lawyer with
20 12 respect to anything related to the Church
21 13 of Scientology?)

22 14

23 15 A To make it through May I can say most
24 16 certainly not.

25 17 Q BY MR. DRESCHER: We'll make it through
26 18 May for now, the answer is "most certainly not?"

27 19 A Uh hum.

28 20 Q Is that a yes?

29 21 A Yeah.

30 22 Q So, did your first conversation with Ms.
31 23 Aznaran concerning her legal situation with the Church
32 24 in the Aznaran case arise after the first of what you
33 25 characterize as the "breakfast meetings?"

9 1 A I think I would have first talked to
2 Vicki about her legal situation after you screwed her
3 out of her lawyer, yeah, and she had a situation.

4 Q Would that be after the first of the
5 breakfast meetings?

6 A Most certainly it would have been.

7 Q Would it be after Barry Van Sickle first
8 told you about the breakfast meetings you testified
9 about?

10 A Yes.

11 Q So the first --

12 A Bear in mind what I told you about the
13 breakfast meetings was what was told to me about the
14 meetings. The details of the discussions regarding
15 her, Ford Greene's representation of the Aznarans
16 and --

17 Let me put it this way. You were
18 approaching Van Sickle to settle the Aznarans case when
19 you knew full well that the Aznarans were represented
20 by other counsel, Ford Greene.

21 And when you knew that Van Sickle had
22 been disqualified from representing the Aznarans, I
23 didn't find that out until later, until I realized
24 that this was a problem.

25 Q How much later?

10 1 A Whenever the problem arose.
11 2 Q What "problem" are you talking about?
12 3 A The Aznarans substituted themselves in
13 4 personae propriae, you cut off settlement negotiations
14 5 and began to file summary judgement motions while they
15 6 had no lawyer.

16 7 Q I am not clear from your answer on the
17 8 sequence.

18 9 I've got three events in mind. I've got
19 10 the first of the so-called breakfast meetings.

20 11 I have Mr. Van Sickle telling you about
21 12 the breakfast meetings.

22 13 And I have Ms. Aznaran and the telephone
23 14 conversation with you in which the subject of your
24 15 representing her and her husband arose?

25 16 A Right.

26 17 Q In what order did those three events take
27 18 place?

28 19 A The exact details of the fact that you
29 20 had broached settlement of the Aznaran case with Van
30 21 Sickle knowing that the Aznarans were represented by
31 22 counsel came after the other two.

32 23 Q So as to the other two, which was first?

33 24 A Obviously the breakfast club meetings
34 25 started on June 5 without my knowledge. Nobody called

10 1 me to ask permission.

2 Q You now recall it's June 5?

3 MR. PARKER: That's what you represented.

4 A That's what you represented and that's
5 what Jack Quinn swore to in your declaration. And I
6 think that's also what you swore to in your
7 declaration.

8 Q BY MR. DRESCHER: It's also what you
9 swore to in your answer?

10 A Whatever it is.

11 I'm taking that date as a convention. At
12 or about that time.

13 Q You have no recollection of the time
14 elapsed?

15 A I'm sure your credit cards and billing
16 sheets we will tell more correctly.

17 Q You have no idea of what time elapsed
18 between those first two events and the third event?

19 A Let me put it to you this way, I believe
20 that I found out that a problem had arisen sometime
21 after you served the motion for summary judgement
22 while they were in persona propria.

23 And I believe if I'm not mistaken the
24 proof of service board of date -- don't hold me to
25 this -- but something like June 23 or so, at or about

10 1 that time. And I don't know when they got it and I
11 2 don't remember exactly who I heard it from, but I knew
12 3 there was trouble ahead and trouble behind.

13 4 MR. DRESCHER: Off the record.

14 5

15 6 (Discussion held off the record.)

16 7

17 8 Q BY MR. DRESCHER: Around June 23, 1991 is
18 9 the date that you associate with what?

19 10 A June 23.

20 11 A The date I associate, it's my selective
21 12 photographic memory. I remember seeing a proof of
22 13 service or some sort, or a signature page. That was
23 14 when there was service of a motion, the first of your
24 15 barrage of three motions for summary judgement after
25 16 the Aznarans went in persona propria.

26 17 A Don't hold me to those exact dates.

27 18 A Sometime around there, between there and the date of
28 19 my appearance I would have become aware of the
29 20 problem. And I would have become aware of the fact
30 21 that there was going to be a gross miscarriage of
31 22 justice unless there was something done about it. So
32 23 sometime around that, the latter part of June, I gave
33 24 a call to Jack Quinn.

34 25 Q In the period from July 1990 until May

10 1 1991 did you engage in any conversation --
1 2 telephonically or in person -- with Richard Aznaran
3 3 about the Aznaran's case against the Church?

4 A About?

5 I don't recall. I don't believe so. I
6 may have asked in casual conversation so how are
7 things going. I certainly didn't render any advice of
8 any sort.

9 Q Did he seek any advice from you?

10 A No.

11 Q Did Ms. Aznaran during that period seek
12 advice from you?

13 A No, not about the case.

14 Q That was my question.

15 Did they seek your legal advice with
16 respect to anything to do with the Church, not related
17 to the pending case?

18 A Not that I recall.

19 That's a little vague as posed, but not
20 as I recall.

21 Q Have you had any discussions with Mr.
22 Armstrong about your intervention in the case filed in
23 Marin County in February?

24 MR. PARKER: Objection, Your Honor,
25 that's irrelevant to this case.

10 1 I'm speaking of a lawsuit that they filed
11 2 the day after they lost their motion for terminating
12 3 sanctions on January 31st of this year in another
13 4 court. It's subsequent to the events in reference, in
14 5 this lawsuit. And can't possibly lead to any
15 6 admissible evidence.

16 7 MR. DRESCHER: I'm endeavoring to ask the
17 8 same question that I was allowed to ask in Mr. Yanny's
18 9 intervention in proceedings in Los Angeles, and simply
19 10 what the substance of discussions were he may have had
20 11 with Mr. Armstrong about the intervention in this
21 12 case.

22 13 MR. PARKER: I filed these papers on
23 14 behalf of Mr. Yanny because they're seeking an order
24 15 that would gag Armstrong from testifying.

25 16 THE REFEREE: We went over this earlier.
26 17 I sustained the objection.

27 18 MR. DRESCHER: I didn't ask about his
28 19 discussions with Mr. Armstrong in that case. It was
29 20 only the early one.

30 21 MR. PARKER: Same point.

31 22 THE REFEREE: The objection is sustained.
32 23 Go ahead.

33 24 MR. DRESCHER: There have been a couple
34 25 of occasions today in which I have made a record or

11 1 indicated the intention to seek a review of one or
12 more of the rulings.

13 With that in mind, and the possibility
14 that we may reopen in that respect, I have no further
15 questions of Mr. Yanny at this time.

16 THE WITNESS: Don't bang your head on the
17 way to the courthouse.

18 THE REFEREE: Alright.

19 We're having in mind that depending on
20 whether relief at another level is requested and
21 afforded, this deposition is terminated at the moment,
22 though it's quite possible that it could be renewed at
23 an appropriate time.

24 MR. PARKER: I propose to relieve the
25 court reporter of her obligation to maintain custody
of the original transcript.

26 The original transcript will be sent to
27 me.

28 I would be responsible for getting it to
29 the witness. He may review the transcript and sign it
30 under penalty of perjury.

31 And I would propose 30 days or the first
32 day of trial, whichever comes first, in order to do
33 that.

34 If he makes changes I will be responsible

1 to give you notice of these changes.

2 MR. DRESCHER: I want to see if I can
3 convince you within 21 days.

4 MR. PARKER: Are you expediting the
5 transcript?

6 MR. DRESCHER: You bet.

7

8 (Discussion held off the record.)

9

10 MR. PARKER: The transcript will be
11 expedited and delivered to the witness on Thursday,
12 and he will sign it no later than three weeks after
13 that date.

14 If he fails to do so in the absence of an
15 agreement extending that time, then a copy may be used
16 as if a certified, signed original for all purposes.

17 And if for any reason the parties need,
18 any of the parties need to have the original logged
19 with the court, we'll be responsible for responding to
20 that question.

21 MR. PARKER: The transcript will be
22 delivered to our office and we're responsible for
23 getting it to Mr. Yanny mid-afternoon on Thursday.

24 THE REPORTER: Who is ordering the
25 original?

11 1 MS. BARTILSON: I'm ordering the
12 2 original.

13 3 MR. DRESCHER: The stipulation is okay
14 4 with me.

15 5 MR. DRESCHER: No copy.

16 6 MR. PARKER: Copy.

17 7

18 8 (Ending time: 6:20 p.m.)

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1 STATE OF _____)

2) ss.

3 COUNTY OF _____)

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6

I, the undersigned, declare under penalty
of perjury that I have read the foregoing
transcript, and I have made any corrections,
additions, or deletions that I was desirous of
making; that the foregoing is a true and correct
transcript of my testimony contained therein.

14 19 , at ,

16

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21

JOSEPH A. YANNY

11 1 STATE OF CALIFORNIA)

2

3 COUNTY OF LOS ANGELES)

4

5 I, JAN W. SERRA, CSR No. 8207,

6 Certified Shorthand Reporter, certify:

7 That the foregoing proceedings were,

8 taken before me at the time and place therein set

9 forth, at which time the witness,

10 JOSEPH A. YANNY,

11 was put under oath by me;

12 That the testimony of the witness and

13 all objections made at the time of the examination

14 were recorded stenographically by me and were

15 thereafter transcribed;

16 That the foregoing is a true and correct

17 transcript of my shorthand notes so taken.

18 I further certify that I am not a

19 relative or employee of any attorney of any

20 of the parties, nor financially interested in

21 the action.

22 Dated this MARCH 11, 1992.

23

24



25 Certified Shorthand Reporter